

TWO HUNDRED AND THIRTY-SECOND MEETING

Held at Lake Success, New York, on Monday, 26 September 1949, at 10.45 a.m.

Chairman: Mr. Carlos E. STOLK (Venezuela).

Draft convention on freedom of information (A/961 and A/C.3/518)¹

1. The CHAIRMAN opened the discussion on the draft convention on freedom of information.

2. Mr. NORIEGA (Mexico) suggested that, in view of the existence of conflicting opinions, the discussion should be postponed until the following morning, so that, in the interval, a compromise

draft resolution, acceptable to the majority of delegations, might be prepared.

3. He therefore moved the adjournment of the meeting.

The motion was adopted by 27 votes to none, with 11 abstentions.

The meeting rose at 11.10 a.m.

TWO HUNDRED AND THIRTY-THIRD MEETING

Held at Lake Success, New York, on Tuesday, 27 September 1949, at 10.45 a.m.

Chairman: Mr. Carlos E. STOLK (Venezuela).

Draft convention on freedom of information (A/961 and A/C.3/518)

1. The CHAIRMAN placed before the Committee two draft resolutions submitted jointly by the delegations of the Netherlands, the United Kingdom and the United States of America (A/C.3/L.4 and A/C.3/L.5) and one presented by the French delegation (A/C.3/L.6).

2. Mrs. ROOSEVELT (United States of America) observed that the United Nations had recognized that freedom of information was an essential element in the maintenance of peace and security and that her country regarded it as such in framing its foreign policy. That that principle should be formally recognized in an international instrument was therefore equally essential. The General Assembly had succeeded in finishing the Convention on the International Transmission of News and the Right of Correction at its third session, but the Third Committee had found extreme difficulty in drafting a convention on freedom of information. The principal difficulty had lain in the lack of agreement about the details. To write into an international instrument a statement of the relevant principle—on which general agreement had prevailed, two alternative methods could be employed. Either a fresh attempt might be made to draft a convention or else adequate provisions for safeguarding the right of freedom of information could be included in the draft covenant on human rights. That covenant would in any case include some reference to freedom of information because it was one of the basic human rights and freedoms. The objection to the former procedure was that nothing had arisen which might give grounds for hope that the original disagreement on details would find any easier solution. That disagreement had been caused by the difference between conditions prevailing in the countries concerned—conditions which had not changed since the end of the third session of the General Assembly. Agreement on the basic principles, was, however, feasible. The covenant on human rights would therefore be the appropriate place for provisions guaranteeing the right to

freedom of information, without which, indeed, it would be incomplete.

3. Turning to the relevant joint draft resolution (A/C.3/L.5), Mrs. Roosevelt noted that the inclusion of adequate provisions on freedom of information in the draft international covenant on human rights was recommended to the Commission on Human Rights, which would receive such material as would enable it to appreciate thoroughly the work already done in that connexion. The Commission had already reached definite results on many questions of principle and might be expected to be equally successful in dealing with the question under discussion. In the event that the Commission was unable to fulfil its obligation, the item would be retained on the agenda of the General Assembly until such time as the Third Committee could review the provisions drafted by the Commission.

4. With regard to the other joint draft resolution (A/C.3/L.4), requesting the opening of the first convention for signature, she noted that that convention had been adopted by a large majority in the General Assembly. Members which wished to sign the convention should be able to do so without further delay. Admittedly, certain Governments might hesitate; such was the case with all international conventions. The procedure recommended, however, was the most realistic in the circumstances. An additional advantage was that it permitted the Third Committee to retain the ultimate responsibility of deciding whether the question of principle had been adequately dealt with by the Commission on Human Rights.

5. Mr. TERROU (France), introducing his delegation's draft resolution (A/C.3/L.6), observed that the procedures of postponement or reference were used by most public bodies simply as a means of obviating the necessity of stating plainly that some proposal was not desired. Even in such cases, however, a certain amount of discussion of the proposal was usually permitted. The joint resolution (A/C.3/L.5), if adopted, would preclude all discussion, whether of principle or detail. The fact that a debate on the convention on freedom of information had in fact been initiated at the previous session and that resolution 277 (III) A of the General Assembly had invited the General

¹ See *Resolutions adopted by the Economic and Social Council during its seventh session (E/1065)*, resolution 152 (VII) B.

Assembly, at its fourth session, to give high priority to the item showed that such discussion had been generally desired. The discussion in the Third Committee at the close of the third session had inevitably suffered from the lack of time, but it had at least shown that the need for a thorough examination of the convention had then been felt. No proposal to abandon the whole matter had been made during that debate. Yet the proposal was made that the same Committee should reverse its attitude.

6. Mr. Terrou reminded the Committee that the United Kingdom delegation had originally submitted the draft convention on freedom of information to the United Nations Conference on Freedom of Information, which had adopted it at the same time as it had adopted the two other conventions relating to the same subject. It could not therefore be denied that those conventions had been regarded as being closely linked, at least with regard to the principle involved, despite the difference of the obligations upon States inherent in the convention on freedom of information. The identity of principle in the conventions had been such that to deny the connexion would be tantamount to stating that the amalgamated Convention on the International Transmission of News and the Right of Correction did not in fact guarantee the freedom of information. The two conventions were, in fact, simply two parallel methods of securing genuine freedom of information. Identity of interest was not confined to the question of principle; it extended to the field of technique. The argument that the first convention was merely technical and could therefore be isolated from the second was not, therefore, valid. It was not for the Third Committee to make a distinction between one set of principles and another, as the United Kingdom delegation appeared to recommend. That delegation, indeed, appeared ready to go further and to wish to jettison one set of principles altogether.

7. At the Conference on Freedom of Information it had been fully recognized that the covenant on human rights should contain a provision concerning freedom of information, and instructions had even been given to draft such a clause. That had not prevented the United Kingdom delegation from submitting a draft convention because it had been well aware, and indeed was still aware, of the fact that the precise, technical rules which that convention should contain had no place in the very general framework of the covenant.

8. The Conference, moreover, had been anxious to obtain results as rapidly as possible. It had rejected a proposal submitted to it to the effect that the convention on freedom of information should be referred to the Sub-Commission of the Commission on Human Rights. The conventions had always been intimately connected, had come jointly before the General Assembly and had been examined together by the Third Committee at the third session.

9. At that session it had been impossible to obtain decisive action. No one, however, had proposed that the draft convention on freedom of information should be referred back to the Commission on Human Rights. The resolution adopted on that subject had recommended that the General Assembly should accord priority to the examination of the question. During the debate in the Assembly it had been the United Kingdom repre-

sentative who had stated that it would be deplorable if no further action were taken on the convention on freedom of information and had strongly urged that the examination of that convention should be resumed immediately upon the opening of the fourth session. That view had prevailed in spite of the fact that the General Assembly had been fully cognizant of the difficulties which had been encountered by the Third Committee in the early stages of the discussion of the convention.

10. Mr. Terrou observed that, whereas those difficulties had been largely due to lack of time for discussion at the end of a session, the fourth session was only beginning and there would be ample opportunity for exhaustive examination. The principal difficulties had arisen in connexion with article 2, owing to the conflict of opinion as to whether it should contain specific or general restrictions. Since then the French delegation had reversed its stand and had abandoned its advocacy of a specific clause in favour of a general one. That showed that it ought to be possible to obtain a text which would be generally acceptable. The difficulty was by no means insuperable.

11. In order to avoid a repetition of the confusion which had stood in the way of a solution, the French delegation had proposed the establishment of a working party to draft a clear compromise text upon which the Third Committee as a whole could take definite action. Such a procedure was preferable to a total renunciation of the convention, which would shock public opinion and nullify the work of the Conference on Freedom of Information. To fumble with continual postponements and references to bodies which lacked the necessary qualifications would brand the Third Committee as impotent and jeopardize the principles themselves. The establishment of a working party might not be the best method of obtaining the requisite results; he was prepared to accept any suggestion which would serve that purpose more effectively.

12. Mr. FREYRE (Brazil) felt that the fear entertained by some delegations that interest in the second convention would decline if the first were approved and even signed separately was exaggerated. That fear had been the principal motive underlying the adoption of resolution 277 (III) A of the General Assembly, under which the first convention was not to be opened for signature until definite action had been taken on the second. The discussions on the second convention had shown the extreme unlikelihood of any harmonious solution. His delegation would certainly prefer that there should be no convention than that there should be an unsatisfactory one.

13. Mr. Freyre could not, however, accept the joint draft resolutions (A/C.3/L.4, A/C.3/L.5) because they appeared to postpone examination of the convention almost indefinitely.

14. He would therefore be somewhat reluctantly compelled to vote for the French draft resolution (A/C.3/L.6) on the ground that the Third Committee had a moral obligation at least to attempt to find a solution during the current session.

15. Mr. FOURIE (Union of South Africa) said that an undesirable impression would be created if the Committee decided to take no action on the convention on freedom of information and merely

to incorporate the principle in the draft covenant on human rights. It was not clear why certain aspects of freedom of information should be appropriate in a convention and others in the covenant. The difficulties inherent in drafting a convention should not be insuperable. The principal difficulty lay in article 2, but a more acceptable text could be worked out.

16. The French draft resolution appeared likely to serve that purpose, but the second paragraph was too strongly worded. To delete it would not impair the effect of the remainder of that resolution, which he would support if the French representative were prepared to accept such an amendment.

17. With regard to the joint draft resolution (A/C.3/L.4), he did not object to the opening of the first convention for signature even before action had been taken on the second one, but he could not accept the idea of further postponement. He presumed, however, that action would not be taken on the signature of the first convention until some decision had been reached on the procedure to be adopted with regard to the second.

18. Mr. MENESES PALLARES (Ecuador) feared that the setting up of a working party to examine the draft convention on freedom of information would lead to no tangible result. The establishment of new committees did not necessarily lead to success; it did, however, inevitably entail the danger of duplication of work. Indeed, even if the proposed working party reached a unanimous decision, the matter would still have to be debated within the Third Committee itself. Furthermore, he felt that freedom of information was too important a question to be referred to a mere working party.

19. The Committee should beware of trying to achieve a convention at any cost; a bad convention would be even worse than no convention. In his opinion, there were many cogent and forceful reasons for referring the matter to the Commission on Human Rights as proposed by the Netherlands, United Kingdom and United States joint draft resolution. The inclusion of the fundamental tenets of freedom of information in the international covenant on human rights would mean unanimous agreement on general principles, while the drafting of a separate convention might result in various inconsistencies, if not actual clashes, between its provisions and domestic legislations, which quite legitimately imposed certain restrictions on freedom of information. By referring the draft convention on freedom of information to the Commission on Human Rights, the Committee would not be discarding the subject. The door would remain open to any further discussion, should the Commission fail to reach a successful decision.

20. Mr. VAN HEUVEN GOEDHART (Netherlands) was convinced that the overwhelming majority of the Committee wished to have adequate international provisions for those aspects of freedom of information which had not yet been properly dealt with in the Convention on the International Transmission of News and the Right of Correction. The main problem was to find the most suitable procedure.

21. Recalling the difficulties which already had arisen in connexion with articles 2 and 5 of the

draft convention on freedom of information, both at the Geneva conference and during the second part of the third session of the General Assembly, he expressed most serious doubts whether they could be solved by a working party. Had he felt that such a party stood any chance of success, he would gladly have lent his wholehearted support to the French proposal.

22. He was deeply convinced, however, that the matter was not yet ripe for a separate convention. Yet it was most desirable that there should be some adequate international provisions in that field. Hence his proposal to refer the question to the Commission on Human Rights, which should be asked, not to draft a new convention, but to include adequate provisions on freedom of information in the draft international covenant on human rights, in the light of the discussions which had already taken place on the subject in the Third Committee. It had been argued that the Convention on the International Transmission of News and the Right of Correction could not be opened for signature until the General Assembly had taken "definite action" on the draft convention on freedom of information as provided in General Assembly resolution 277 (III)A. In his opinion, to refer the matter to the Commission on Human Rights would constitute such "definite action."

23. It was better honestly and openly to acknowledge that the question was not yet ripe for a separate convention and, in those circumstances, the best course for the Committee was to adopt the joint Netherlands, United Kingdom and United States draft resolution, thus ensuring that the Commission on Human Rights would work out some adequate provisions on freedom of information, which would form a counterpart to those already embodied in the Convention on the International Transmission of News and the Right of Correction.

24. Mr. NASZKOWSKI (Poland) deprecated the United States and United Kingdom manoeuvres aimed at thwarting any sincere attempt to work out a just and honest convention on freedom of information in the interest of peace and international collaboration. Although the Convention on the International Transmission of News and the Right of Correction was of secondary importance and purely technical in character, the United States and the United Kingdom had insisted that it should be completed first. That convention left full freedom of action to United States and United Kingdom correspondents and provided neither States nor individual readers with any effective protection against slander, distorted news and warmongering. Article IX, for instance, merely appealed to the "professional responsibility" of correspondents instead of laying down definite regulations against the distortion of news. Furthermore, "news material" had been made to include all kinds of news so that even distorted and false news was protected by the convention, which was advantageous only to the United States and United Kingdom Press and information monopolies.

25. The United States and the United Kingdom proposal to postpone further action on the draft convention on freedom of information, which they themselves had submitted in the first instance, was explained by their fear that the final text of such a convention might not prove wholly advantageous to them. Indeed, many amendments had been

adopted during the second part of the third session of the General Assembly, including for instance the Polish amendment to article 2, prohibiting any incitement to religious and racial hatred.¹

26. The Polish delegation would consider the postponement of action on the draft convention on freedom of information as entailing the automatic postponement of any further action on the Convention on the International Transmission of News and the Right of Correction, as the two were intimately bound together. That had been clearly recognized by the General Assembly when it had decided in resolution 277 (III)A that the Convention on the International Transmission of News and the Right of Correction would not be opened for signature until the General Assembly had taken "definite action" on the draft convention on freedom of information. "Definite action" could only mean either adoption or rejection; referring the matter to the Commission on Human Rights could in no circumstances be construed as representing such action. Consequently, if the draft convention on freedom of information were referred to the Commission on Human Rights, the Convention on the International Transmission of News and the Right of Correction could not be opened for signature.

27. Mr. RAO (India) recalled that the previous session of the Third Committee had, despite serious warnings from his and other delegations, made major changes in the text of the Convention on the International Transmission of News and the Right of Correction, and had then applied the same methods to the draft convention on the freedom of information until the whole question had become so involved and complex that the latter convention had had to be referred to the fourth session of the General Assembly. From the discussions which had preceded that decision, there had emerged at the time the basic and generally accepted idea that the interim period between the adoption of the first and second conventions should be as short as possible because both were part of an organic whole and should, therefore, be considered together.

28. Hence, he sympathized greatly with the views expressed by the French representative and the proposal he had submitted to the Committee. He agreed, however, with the South African representative's suggestion that the second paragraph of the French draft resolution might be deleted altogether; furthermore, he felt that the decision proposed by that draft resolution should be taken by the Third Committee itself and not by the General Assembly. Nor did he feel it would be necessary to wait until 15 October 1949 for a report from the working party proposed under the draft resolution.

29. He was in full agreement with the opinion of the French representative that the Committee should, through the intermediary of the suggested working party, make yet another effort to solve the difficulties which had arisen in connexion with the draft convention on freedom of information. It was his belief that such a working party should be given the fullest freedom possible to deal with the convention as a whole. In doing so, it would no doubt bear in mind the debates which had

already taken place on that subject in the Third Committee. If the working party were successful in its task, the Committee might still be able to adopt an acceptable convention during the current session of the General Assembly. Should it fail, however, nothing would prevent the Committee from then recommending to the General Assembly that the matter should be referred to the Commission on Human Rights, as proposed in the joint Netherlands, United Kingdom and United States draft resolution.

30. By adopting the course he suggested, the Committee would not be rejecting that draft resolution; it would merely adjourn the debate on that item for some time in accordance with rule 108 (c) of its rules of procedure.

31. Mr. OTAÑO VILANOVA (Argentina) believed that the Convention on the International Transmission of News and the Right of Correction and the draft convention on freedom of information were but two parts of an organic whole, the former dealing with technical rules and regulations and the latter with general principles. Indeed, it had always been his opinion that it would have been more advisable to deal with the general principles first and the technical regulations second. The reverse procedure, however, had been adopted in the past despite serious misgivings on the part of various delegations. That the Committee had always regarded the two conventions as parts of an organic whole was quite clear from the provision adopted both by the Committee and the General Assembly that the Convention on the International Transmission of News and the Right of Correction would not be opened for signature until the General Assembly had taken "definite action" on the draft convention on freedom of information.

32. He agreed with the joint Netherlands, United Kingdom and United States draft resolution in so far as he felt that the covenant on human rights should be most comprehensive and should thus include general principles pertaining to freedom of information.

33. In his opinion, however, the Committee should give serious consideration to the French proposal in the hope that the proposed working party might achieve some measure of success in finding a common denominator for an exhaustive debate in the Committee itself.

34. In conclusion, he wished to emphasize his full agreement with the statement made by the representative of Ecuador that a bad convention would be even worse than no convention at all.

35. Mr. DEDIJER (Yugoslavia) considered the draft resolution submitted by the Netherlands, United Kingdom and United States delegations to be simply an attempt to condemn the draft convention on freedom of information to gradual oblivion. Almost four years had passed since the question of freedom of information had first been raised. The Conference held at Geneva in March 1948 had adopted three conventions and forty-three resolutions on the subject,² while the Third Committee, at its previous session, had only managed to adopt one amalgamated convention after lengthy and arduous discussions. In his opinion, the Convention on the International Transmission

¹ See *Official Records of the third session of the General Assembly, Part II, Third Committee*, 213th meeting.

² See *Final Act of the United Nations Conference on Freedom of Information* (E/Conf.6/79).

of News and the Right of Correction dealt only with technicalities and would simply serve to permit the unlimited penetration of monopolists into under-developed countries. With the adoption of that convention, the States with powerful media of information were trying to abandon the draft convention on freedom of information, which, although it was not perfect, could have served as the basis for a really effective instrument in the cause of international peace and security.

36. In the interval since the subject of freedom of information had first been discussed, the activities of the Press had not improved in the least and there had been no attempt to carry out the recommendations of the resolution introduced by Yugoslavia on false or distorted reports, and adopted by the Assembly during its second session as resolution 127 (II). The situation had in fact deteriorated and warmongering was rife.

37. The under-developed countries were at a particular disadvantage since they possessed no powerful means of distributing information and thus of making their views known throughout the world. Yugoslavia was a case in point. For the preceding year and a half the Press of the USSR, acting on governmental instructions, had consistently aimed at the overthrow of the legal Government in Yugoslavia. The campaign against Yugoslavia had reached such proportions that when a football team from Yugoslavia had won a match in Norway, the Press in all the Eastern European countries had attributed the victory to a team from Czechoslovakia. Mr. DEDIJER then gave further examples of the threats, intimidation and falsehood to which Yugoslavia had been exposed from the East.

38. The Press of the West had also published false and distorted information about his country in an attempt to aggravate the strained relations between the socialist countries of the East. For example, a correspondent of *The New York Times* had written an article stating that an Albanian committee composed of Nazi collaborators had been formed in Yugoslavia. The story had been officially denied, as had also false rumours from the East which alleged that Yugoslavia had sinister designs against the independence of Albania. Nevertheless, two weeks later the same correspondent of *The New York Times* had repeated his story from Athens, thus adding colour to the false rumours from the East.

39. The Yugoslav delegation, therefore, was particularly anxious that the Third Committee should keep the draft convention on freedom of information on its agenda for, with certain improvements, the document would provide a safeguard against the existing misuse of the media of information.

40. Mr. AZKOUL (Lebanon) said that the work of the United Nations in the field of human rights could not be confined to the elaboration of the Universal Declaration of Human Rights and the proposed covenant. It had always been recognized that further international instruments would be required to deal in greater detail with some of the subjects which could only be touched upon in general terms in those two documents. The necessity for further draft conventions had become even more evident of late because of the growing tendency to elaborate the draft covenant on human rights in very general terms. In his opinion, therefore, it was essential to prepare a separate con-

vention on freedom of information, even though an article on the subject would be included in the draft covenant on human rights.

41. As had already been said, the draft convention on freedom of information was very closely connected with the Convention on the International Transmission of News and the Right of Correction. The fact that the General Assembly had decided not to open the one for signature until definite action had been taken on the other was sufficient proof of their interdependence.

42. Nevertheless, he recognized that the countries which wished to refer the matter to the Commission on Human Rights must have important reasons for that proposal. It was difficult, however, for the Third Committee to take a decision without knowing exactly what difficulties were envisaged by those countries. In that respect, he supported the representative of India who had shown the possibility of a compromise solution.

43. The working party proposed by the representative of France (A/C.3/L.6) could analyse the difficulties which were likely to arise in the preparation of a final draft convention and could attempt to overcome them. If it then became apparent that the difficulties were insuperable, the Third Committee could adopt the procedure suggested by the delegations of the Netherlands, the United Kingdom and the United States (A/C.3/L.5).

44. He did not think that the Third Committee should refer the question to another body until it had at least made some attempt to discuss it.

45. Mr. CONTOUMAS (Greece) referred to the general pattern of the work of the United Nations on human rights and said that the question of freedom of information obviously belonged within that pattern. From that point of view, therefore, he would have been glad to support the proposal made by the Netherlands, United Kingdom and United States delegations to refer the matter to the Commission on Human Rights. It would have been more logical to have decided from the very start that the provisions on freedom of information should be incorporated in the draft covenant on human rights. Then more detailed conventions could have been drafted later when the need arose. Unfortunately, however, the Third Committee had already adopted one convention on the subject and it would be very difficult to refer the second draft convention back to the Commission on Human Rights, when the Assembly had expressly requested the Third Committee to give the matter high priority.

46. It might be possible to find a compromise solution on the basis of the draft resolution submitted by the representative of France (A/C.3/L.6). A working party might be asked to prepare an acceptable text of the draft convention on freedom of information; but he emphasized that such a text should be unanimously adopted before it could be considered as a successful compromise. In his opinion, the Committee should decide to refer the matter to the Commission on Human Rights unless it proved possible to prepare a unanimously acceptable compromise text.

47. In conclusion, he emphasized that his country felt very strongly that an international instrument on freedom of information should be prepared.

The meeting rose at 1 p.m.