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Draft Convention on Freedom of Information: report
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Chairman: Mrs. Aase LIONAES (Norway).

AGENDA ITEM 34

**Draft Convention on Freedom of Information: report
of the Economic and Social Council (A/2181, A/
2943, chap. VI, sect. VI, paras. 673-675, A/3150, A/
3589, A/AC.42/7 and Corr.1, annex, A/C.3/L.660)
(continued)**

1. Mr. FOMIN (Union of Soviet Socialist Republics) said that in his view the Committee should persevere in its work on the draft Convention on Freedom of Information, which would be an important international instrument. He had no objection of principle to draft resolution A submitted by the Philippines (A/C.3/L.660), but regretted that it did not state expressly that the Committee would resume its examination of the draft Convention at the thirteenth session. The matter was left entirely open in the draft resolution.

2. In draft resolution B, the Philippines representative had selected only two of the questions to which, as Rapporteur on Freedom of Information, he had attached primary importance in his report.^{1/} Furthermore, one of the two subjects—censorship—was largely within the domestic jurisdiction of States and should therefore not be considered by an international body. The second subject was a declaration on freedom of information. It seemed peculiar, to say the least, to consider a mere declaration on the very topic on which the Committee was endeavouring to draw up a legally binding convention. Furthermore, it was premature for the Committee to suggest work projects for an organ which had only recently been established by the Commission on Human Rights^{2/} and whose usefulness had not yet been proved. Lastly, it was to be feared that if the Committee were to be presented with the various recommendations set forth in draft resolution B, it would dissipate its efforts at the next session of the General Assembly and have no time for its main purpose: careful consideration of the substance of the draft Convention on Freedom of Information (A/AC.42/7 and Corr.1, annex).

3. He had no objection to draft resolution C but he wished to hear the views of the delegations directly concerned before determining his own position.

^{1/} Official Records of the Economic and Social Council, Sixteenth Session, Supplement No. 12.

^{2/} Ibid., Twenty-fourth Session, Supplement No. 4, para. 205.

4. Mr. CARASALES (Argentina) remarked that there was full freedom of information and the Press in his country.

5. The draft Convention on Freedom of Information had been undertaken by the United Nations in a very optimistic spirit; unfortunately the debate on several successive drafts had shown an irreconcilable divergence of views. Several articles of the draft Convention raised a series of difficulties respecting the limitation of freedom of information, which no amount of drafting could solve. For that reason the issue had been deferred from year to year.

6. In his view, a Government which wished to ensure freedom of information in its territory could do so without an international convention; whereas a Government seeking to curtail that freedom might easily find a legal foundation for its action in the provisions of the convention. Such a convention would be worse than none, while one which did not attempt to restrict freedom of information in any way would unfortunately be acceptable to very few States. He saw no prospect of breaking that deadlock in the near future and therefore though he was not entirely optimistic about its results. (828th meeting) that an ad hoc committee should be set up to prepare a draft convention was premature.

7. The Philippine delegation had taken a more realistic view of the matter in its draft resolutions (A/C.3/L.660). He was able to support draft resolution A, although he was not entirely optimistic about its results. Draft resolutions B and C furnished a new approach to the matter. He supported some of the ideas in draft resolution B, although others would seem to call for further consideration; and he was strongly in favour of the seminars suggested in draft resolution C.

8. Mr. TEJERA (Uruguay) associated himself with the Argentine representative's remarks, especially with regard to the insuperable difficulties involved in the draft Convention on Freedom of Information. The Philippine draft resolutions (A/C.3/L.660) offered a constructive alternative, and he would therefore vote for all of them, with possible drafting changes.

9. He drew attention to the close connexion between the supply of newsprint, on the one hand, and freedom of information and of the Press, on the other. In countries where the distribution of newsprint was controlled by the State, only those who favoured the Government's policies received enough newsprint to be able to publish newspapers. In his own country, on the other hand, not only was newsprint freely available to all, but newspapers, whatever the shade of political opinion they represented, were exempt from taxation and were able to obtain newsprint and machinery at a very favourable rate of exchange. It was an ideal system, which favoured freedom of information to the utmost and he recommended it highly to other countries.

10. Mrs. SIMONOVA (Czechoslovakia) observed that States, whether or not they were Members of the United Nations, should take measures in all matters of information which would help to relax tension and restore confidence and security in international relations. War propaganda and the distortion of information for the purpose of inciting to violence, immorality and racial hatred were contrary to the principles of freedom of information and should not be tolerated. Czechoslovakia and the other peoples' democracies had given effect to the principles of the United Nations Charter and the recommendations of the General Assembly by enacting laws prohibiting such misuse of information media. The United Nations could achieve the same end to a far greater extent by adopting a convention on freedom of information containing provisions against the dissemination of war propaganda and the incitement to hatred among nations.

11. Since it was interested in progress being made on the draft Convention on Freedom of Information, her delegation was prepared to support draft resolution A submitted by the Philippines (A/C.3/L.660), in the hope that the comments received from Governments would provide a valuable basis for further discussion of the draft Convention. The measures proposed in draft resolution in B, however, would only complicate the matter and delay the solution. Her delegation would express by its votes, its final position on the three draft resolutions submitted by the Philippines.

12. Mr. HAMZAVI (Iran) said that it was discouraging that so little progress had been made with freedom of information and that, after ten years of work, the question was still being postponed from year to year. Action was urgently needed, not only because it was one of the most important issues of modern times, but because misinformation was playing havoc with peace and social order. The dissemination of false and distorted information had become, in the hands of specialists, a means of influencing the thinking of whole communities and a serious danger to international peace. In mentioning such specialists, he was not referring to newspapermen, the great majority of whom carried out their difficult task with integrity, but those who made conscience subservient to interest and distorted information for commercial and other purposes.

13. Among the methods which had been suggested to combat misinformation were censorship and the dissemination of selected information only. Censorship in any form was an evil, as it violated human rights and weakened the moral fibre of healthy communities and the dissemination of selected information was just as dangerous. Even the fundamental dogma of the Moslem faith, "There is no God but God" could be transformed into an affirmation of atheism if only the first four words were selected for dissemination.

14. He himself was not a newspaperman but he had had to deal with newspapers. His Government had given him the duty of counteracting the vicious propaganda which had been disseminated against Iran. He was only too familiar with the procedure which consisted of inventing some harmful myth and then disseminating tendentious information to support it. His bitter experience had taught him that freedom from misinformation should be added to the four freedoms proclaimed by Franklin D Roosevelt. It should be remembered, however, that freedom was a means to an end, not an end in itself, and that it entailed responsibilities.

15. Ten years of discussion in the United Nations had encouraged clearer thinking on freedom of information. It had helped him personally, in his work as Director of Broadcasting and Propaganda, to oppose such solutions of expediency as censorship and to strive for full freedom of information. If a clear definition of freedom of information had emerged from the United Nations debates, his task would have been very much easier.

16. He paid a tribute to Mr. López for his indefatigable efforts to promote freedom of information. The draft resolutions (A/C.3/L.660) submitted by the Philippine delegation were acceptable as a whole, but he had one reservation to make: they should not be construed to mean that consideration of the draft Convention on Freedom of Information could be postponed indefinitely. On the contrary, it should be given priority at the thirteenth session.

17. Mr. GOMEZ ROBLEDO (Mexico) said that his delegation had always done its best in the different bodies on which it had served to uphold the cause of freedom of information. It had always adopted a firm and conciliatory attitude and striven to achieve a proper balance between the two rights involved in freedom of information, as laid down in article 19 of the Universal Declaration of Human Rights: the right to receive and the right to impart information. The right to receive information was meaningless unless the information imparted was accurate and complete. The transmission of partial information, of which some news agencies were guilty, was a violation of the ordinary citizen's right to know the truth and the whole truth: but the exercise of freedom of information, like the exercise of any other freedom in an organized society, involved duties and responsibilities. A draft convention consisting of two articles, one recognizing the right to freedom of information and the other authorizing States to suspend the right in times of emergency, might possibly be sufficient but his delegation had preferred to seek definitions which would ensure the free exercise of both of the rights involved in freedom of information with prejudice to none.

18. The Philippine draft resolutions (A/C.3/L.660) contained limited proposals for the only action possible at the current time and his delegation would support them. However, he felt that the Committee on Freedom of Information mentioned in operative paragraph 2 of draft resolution B should be only a study group and should not be asked to make recommendations which might further complicate an already complicated question. It was a small committee and not fully representative of the membership of the United Nations; therefore it should not consider the question of censorship, as proposed in paragraph 2 (a). In Mexico, censorship was prohibited by the article of the Federal Constitution which guaranteed freedom of information: his delegation did not, therefore, object to a discussion of the subject in principle, but it did not think such a discussion would be useful at the current time.

19. Miss BERNARDINO (Dominican Republic) said that freedom of information was one of the most important and complex subjects the Committee had had to consider. The Press should obviously be a means of transmitting and exchanging true information which would promote friendship and understanding between peoples. Reason and truth must be its guides. The peoples had the right to receive not only information but complete information on any subject. Licence

must not be confused with freedom, however, and the Press should not publish mendacious and tendentious stories under the cloak of honest criticism.

20. It was a sad fact that unfounded rumours were often more attractive to news agencies than the plain unvarnished truth; but news selected on that basis could do nothing to improve relations between peoples and even made the acquisition of accurate information impossible. She herself had been the victim of scurrilous and unfounded attacks in the Press, against which she had had no remedy. That was a misuse of freedom of information and was contrary to the Charter of the United Nations and the Universal Declaration of Human Rights. The Committee should give more attention to that side of the question. She supported the addition to the preamble of draft resolution B (A/C.3/L.660) proposed by the Saudi Arabian representative at the preceding meeting; the words suggested would at least partly cover her point. She hoped that the United Nations would eventually evolve a satisfactory formula which would both ensure the freedom of true information and prevent misinformation. In doing so, it would render the greatest service to humanity.

21. Mr. MARINESCU (Romania) said that his delegation's position was very clear. His delegation stood for freedom of information which promoted friendship between peoples; it opposed the use of information media for purposes contrary to the interests of international peace and security. It could not approve of the continual postponement of the item from one session to another or the attempts which had been made to prevent its consideration of the next session of the General Assembly.

22. The arguments in favour of postponing or dropping the item were only too well known. Some delegations held that, as opinions were so wide apart, any discussion of the question would be sterile at the current time. That was a mistaken view and dangerous and illogical. If there was no difference of opinion, no discussion would be necessary; the United Nations had been established largely for the purpose of attempting to reconcile divergent views. It would be doing less than its duty if it dropped the question of information merely because of the difficulties in the way of a solution; on the contrary, it should make every effort to arrive at a solution. Other delegations had maintained that discussion of the question should be deferred until there was a slackening of international tension, but that was untenable, for misinformation and war propaganda were among the factors conducive to international tension. The Committee must strive to break that vicious circle.

23. The difficulties involved in the adoption of a convention should be faced and surmounted without delay. It was urgently necessary to prevent misinformation and war propaganda so that the peoples could be assured of information which tended to strengthen peace. Those opposing the resumption of the discussion at the thirteenth session were, of course, afraid of such a debate; but the discussion could not but be welcomed by States which were anxious to end the "cold war" and to free themselves from the monopolistic power of the big information enterprises. The Romanian delegation favoured consideration of the draft Convention on Freedom of Information not later than at the thirteenth session and would therefore vote

against the Philippine draft resolutions (A/C.3/L.660) in their existing form.

24. Mr. BAROODY (Saudi Arabia) said that he had understood that the Philippine representative would be prepared to amend draft resolution A (A/C.3/L.660) to indicate that the General Assembly would give priority to the consideration of the draft Convention.

25. He had some doubts, however, concerning the attitude that might be adopted towards paragraph 2 (b) of draft resolution B by delegations which were firmly opposed to consideration of the draft Convention; those delegations might very well concern themselves solely with the proposed declaration, which would be general and not binding upon States, and use that as an excuse to evade an exhaustive discussion of the draft Convention. For his part, he did not consider that a declaration on freedom of information would be particularly useful, since the principles of that freedom were already stated in the Universal Declaration of Human Rights and, implicitly, in the Charter. As several representatives had pointed out, the right had been clearly stated and was perfectly comprehensible; the question at issue was the abuse to which the right was open. The fact that he had not noticed the danger of the sub-paragraph until recently seemed to show that the Committee needed more time to consider the full implication of texts submitted to it.

26. He wondered whether the Philippine representative would agree to add to paragraph 2 (b) a clause such as: "with the understanding that such a decision will not jeopardize the discussion of the draft Convention on Freedom of Information". He thought that the addition of such a clause was reasonable, for the benefit of those who did not wish the Committee's deliberations to be confined to an innocuous but ineffectual declaration.

27. With regard to paragraph 2 (a), he considered that it would be futile to consider the question of censorship separately. Without a convention on freedom of information, it was doubtful whether the "cold war" could come to an end; it was the "cold war", however, which created in many countries a condition of emergency which led to various forms of censorship. Sometimes the measures were taken needlessly, but it must be borne in mind that Governments were composed of human beings, who were frightened into proclaiming a state of emergency. Until freedom of information could be properly regulated, through a suitable convention imposing an acceptable minimum of restrictions, some kind of censorship would inevitably be imposed. He would therefore be obliged to abstain from voting on paragraph 2 (a).

28. Mr. COX (Peru) said that in Peru freedom of expression in writing was guaranteed by the Constitution and there was no previous censorship. In cases of emergency, when individual safeguards were temporarily suspended by constitutional decree, there was no restriction on the freedom of the Press. As in other Latin American countries which had fought for their independence, freedom of the Press was one of the fundamental guarantees. Moreover, the law safeguarded to persons who believed themselves to be victims of scandal the right to resort to legal proceedings for redress.

29. The delegation of Peru would vote in favour of the draft resolutions submitted by the Philippines (A/C.3/L.660).

30. Begum JEHAN-MURSHID (Pakistan) said that the importance of freedom of information could not be over-emphasized, since it involved freedom of thought and expression. In her delegation's opinion, the problem should be considered from three points of view. In the first place, the meaning of the phrase "freedom of information" must be made clear. Secondly, it was essential to take into account the advances that had taken place with regard to the technical aspects of information media and the effects of those technological developments on the substance of information. Thirdly, the Committee also had to take into consideration the shortness of the time at its disposal for an adequate exchange of views on such an important subject.

31. The Pakistani delegation believed that the subject called for a full discussion of all the related questions. It was only when existing misunderstandings and misgivings were removed by thorough discussion that friendly co-operation and comprehension, which was the aim of the draft Convention, could be achieved.

32. Her delegation was convinced that freedom of speech and thought and freedom to seek, receive and impart information without unnecessary restrictions were indispensable to the discovery and dissemination of all aspects of truth. The very existence of a democratic order was based on the provision of honest and straightforward news, for the judgement of those who had to make decisions must be based on truthful information. That was not an easy matter, however, since policies could be represented in different ways by the omission of relevant facts, and a distinction must be made between the dissemination of truth and the art of propaganda. A people without reliable news would sooner or later become a people without any freedom.

33. That issue raised the fundamental point of the ownership of information media and State monopoly over those media. The news disseminated by such organs would naturally be coloured by the interests of the owners.

34. The Constitution of Pakistan guaranteed full freedom of thought, speech, expression and the Press. That did not mean, however, that all persons had the right to say or publish whatever they chose without any restric-

tion. The Constitution provided that freedom should be ordered, for otherwise the very foundations of organized society would cease to exist. It could not be considered unreasonable to enact laws prohibiting utterances tending to corrupt public morals, slandering individuals, inciting people to crime or jeopardizing organized government by advocating violence. It was essential to be objective and realistic. In Pakistan, when laws on freedom of the Press were challenged, the courts decided whether or not the appeals were justified. A working principle was that freedom of information should be given full scope and should be curtailed only when there was a clear and present danger that the utterance or publication would harm society. That principle, which had found increasing judicial favour, was the very basis of article 2 of the draft Convention (A/AC.42/7 and Corr.1, annex); its real meaning was that freedom implied responsibility.

35. Turning to the Philippine draft resolution (A/C.3/L.660), she said she considered that the idea of holding a seminar, proposed in draft resolution C, was excellent, but that the adoption of a convention was even more important. With regard to draft resolution A, her delegation agreed that Governments, particularly those of new Members of the United Nations, might require time to formulate their views on the draft Convention. The operative part of the draft, however, seemed to need strengthening and she hoped that the Philippine delegation would take that view into account. Under draft resolution B, the Commission on Human Rights was instructed to assume responsibility for a number of aspects of the question. Although that course seemed sensible in view of the shortness of the time at the Committee's disposal, it indicated a tendency to shelve the matter. She therefore supported the Saudi Arabian representative's proposal that priority should be given to the discussion of the draft Convention at the thirteenth session of the General Assembly. The Pakistani delegation believed that the Third Committee was competent to deal with the subject and should not evade the issue. After so many years, it was morally bound to discharge its responsibility.

The meeting rose at 12.55 p.m.