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SUB-COMMISSION ON FREEDOM OF INFORMATION
AND OF THE PRESS

Fourth session

PROVISIONAL SUMMARY RECORD OF THE SEVENTY-FIRST MEETING

Held at Hotel Parque, Montevideo,
on Tuesday, 16 May 1950, at 3.30 p.m.

CONTENTS:

The adequacy of the news available to the peoples
of the world and the obstacles to the free flow
of information to them (E/CN.4/Sub.1/106)
(continued)

Resolution suggested by Mr. Binder condemning
jamming of radio broadcasts and other inter-
ferences with the free flow of information
across national boundaries (E/CN.4/Sub.1/115)

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Chairmen: Mr. FONTAINE (Uruguay)

Rapporteur: Mr. JORDAN (United Kingdom of Great Britain and Northern Ireland)

Members: Mr. AQUINO (Philippines)

Mr. AZKOUL (Lebanon)

Mr. AZMI (Egypt)

Mr. BINDER (United States of America)

Mr. P. H. CHANG (China)

Mr. DEBIJER (Yugoslavia)

Mr. GANDHI (India)

Mr. GERAUD (France)

Mr. SILVA CARVALLO (Chile)

Representative of a specialized agency:

Mr. FARR United Nations Educational, Scientific and Cultural Organization (UNESCO)

Secretariat:

Mr. HUMPHREY Representative of the Secretary-General

Mr. HOGAN Secretary of the Sub-Commission.

THE ADEQUACY OF THE NEWS AVAILABLE TO THE PEOPLES OF THE WORLD AND THE OBSTACLES TO THE FREE FLOW OF INFORMATION TO THEM (E/CN.4/Sub.1/106) (continued)

Resolution suggested by Mr. Binder condemning jamming of radio broadcasts and other interferences with the free flow of information across national boundaries (E/CN.4/Sub.1/115)

Mr. BINDER asked the Sub-Commission to disregard the fifth paragraph of his draft resolution, as his attention had been called to the fact that the problem to which it referred ought to be considered separately.

He observed that his draft resolution raised a political question which the Sub-Commission could not evade. The Union of Soviet Socialist Republics had set up about 100 transmitters designed solely to jam the broadcasts of the Voice of America and the BBC and probably of other radio networks. It might be assumed that that method was not being quite as successful as had been anticipated, but it was certain that it prevented the inhabitants of the USSR to a considerable extent from listening to broadcasts from abroad. The press, radio and films available to them were strictly censored. The information transmitted to them was designed not for their enlightenment but for their indoctrination and the promotion of distrust of foreign countries.

/He thought

He thought that a situation of that kind should be the concern of the Sub-Commission and of all free peoples. He did not overestimate the influence which his draft resolution might exercise upon heads of State, but he believed it necessary officially to condemn a threat to the maintenance of international peace and security.

Mr. OHANG was prepared to support Mr. Binder's draft resolution. He had heard recently, however, that certain United States radio stations were retaliating by jamming broadcasts from the USSR. He was not sure that that was a fact, and therefore requested Mr. Binder to clear up that point.

Mr. BINDER stated that so far as he knew, no United States station was jamming broadcasts from the USSR. He personally had always encouraged Americans to listen to foreign broadcasts and he would be the first to condemn any jamming done in his country. It should be noted, in that connexion, that most available information about the Soviet Union had been obtained from the monitoring of Soviet broadcasts rather than from correspondents' despatches.

Mr. AZMI observed that Mr. Binder's draft resolution was based upon two considerations: firstly, that certain radio operating agencies were deliberately jamming the

/ broadcasts of

broadcasts of foreign stations and, second, that that practice was contrary to article 44 of the International Telecommunication Convention. Other articles of that Convention, however, also provided that any State could prevent the reception in its territory of any private message by telegraph, telephone or teletype if it considered that such a measure was required in the interest of national defence or for the maintenance of public order and security. States, therefore, had an even greater right to prevent the reception of radio broadcasts when they were, in their opinion harmful to the administration of the State. He therefore thought that Mr. Binder's draft resolution was likely to defeat its own purpose, as the USSR Government might perfectly well assert that the broadcasts which it was jamming were harmful to its security, to the maintenance of public order and to morals and jeopardized its national defence, an objection which the General Assembly and the Economic and Social Council would not be in a position to refute. He did not deny that the USSR was acting obstructively and indulging in reprehensible practices which hampered the exercise of freedom of information. Nevertheless, in view of the provisions clearly laid down in the international

/ instruments

instruments dealing with that subject and the arguments which the USSR Government could advance, Mr. Azmi proposed the addition of the words "with the exception of measures directly related to national defence" at the end of the final paragraph.

The CHAIRMAN thought that it would be better to adopt a draft resolution couched in general terms. The operative part of Mr. Binder's resolution, however, followed directly from a preamble in which specific reference was made to particular cases. That preamble should therefore be altered in such a way as to omit any reference to a specific example.

Mr. BINDER observed that the example cited in his text concerned hundreds of millions of persons. That was why he had thought fit to refer to it, particularly as that situation was likely to affect the maintenance of international peace and security. He believed that that aspect of the question came within the scope of the Sub-Commission; it should decide once and for all whether it was or was not willing to take it up. Furthermore, he could not accept Mr. Azmi's proposal.

/ The CHAIRMAN,

The CHAIRMAN, replying to Mr. Binder, said that the Sub-Commission could adopt only resolutions of a general nature. All cases were of equal concern to it; there was no need to specify that the draft resolution under discussion was based on a special case.

Mr. AZMI observed that the purpose of his amendment was not to anticipate whatever reply the USSR Government might make nor to intimate what objections might be advanced. The draft resolution was, in his opinion, a general one and set a precedent. Should his amendment not be adopted, he feared that he would be unable, in the circumstances, to defend the Egyptian Government's position if it decided to jam broadcasts from the USSR in the interest of the State. It was a double-edged weapon; and he urged the Sub-Commission to adopt his amendment.

Mr. JORDAN, commenting on an observation by Mr. Binder, said that the BBC had never tried to jam foreign broadcasts. He entirely agreed with the Chairman's view that the draft resolution ought to be couched in general terms and should apply to the jamming of all radio broadcasts.

/ Undoubtedly,

Undoubtedly, the USSR was the worst offender in that respect, but, in order to be tactful, it would be better to condemn all reprehensible practices, regardless of the identity of those responsible for them.

Mr. AQUINO said that he realized that the adoption of a resolution couched in general terms would spare the Sub-Commission the necessity of having to adopt a new draft resolution dealing with another special case at every session. He therefore fully agreed with the Chairman and Mr. Jordan.

On the other hand, he had some misgivings about Mr. Azmi's proposal. Everyone knew, of course, that certain States thought fit to take measures to combat certain ideologies in the interests of their security, but it was to be doubted whether such precautions could justify measures designed to impede listening to foreign radio broadcasts. Mr. Azmi's amendment might open the door to abuses and restrictions on freedom of information, which would defeat the purpose of the Sub-Commission. He therefore proposed that the Sub-Commission should adopt the draft resolution with the change suggested by the Chairman, but not with Mr. Azmi's amendment.

/ Mr. CHANG

Mr. CHANG drew the Sub-Commission's attention to paragraph 3 of the operative part of the draft resolution and observed that the recommendation embodied in it was couched in wholly general terms. He could not see any reason for refraining from reference to a particular case in the preamble, namely, the jamming operated by the USSR Government, as it was essential, in his opinion, to identify the principal offender.

Mr. Chang entirely agreed with Mr. Aquino's views about Mr. Azmi's amendment.

Mr. BINDER called the Sub-Commission's attention to the fact that the texts to which Mr. Azmi had referred in support of his argument provided that States could prohibit the reception in their territory solely of private communications by telegraph and telephone.

The CHAIRMAN supported Mr. Binder's comments. He thought that the reservation which Mr. Azmi wished to be inserted in the text merely confused matters.

Mr. SILVA CARVALLO thought that the jamming of radio broadcasts from abroad by the USSR Government was a fact so well known that reference should be made to it.

/ He could not

He could not see what was to be gained by the failure to refer in a draft resolution to a state of affairs which was common knowledge. He would therefore vote for the original text of the draft resolution.

Mr. AZKOUL remarked that jamming of radio broadcasts was only one obstacle, among many, to the free flow of information. The elimination of those obstacles required that their common origin should first be determined. Mr. Azkoul considered that the basic task of the Sub-Commission. In his view, the underlying reason for all restrictions placed upon freedom of information and of the press was that certain States derived their power from a metaphysical or religious philosophy which held that the State alone had a monopoly of the "truth" and was empowered to use force to combat all ideas or opinions which it considered contrary to that "truth".

Fascism, nazism and communism were examples of metaphysical philosophies. Moreover, Mr. Azkoul mentioned the efforts being made at the present time by some religious groups to seize power in certain countries.

It would certainly be difficult for the United Nations to remedy that situation;

/ nevertheless,

nevertheless, he thought that the Sub-Commission should proclaim to the world that totalitarian regimes constituted the greatest obstacle to the exercise of freedom of information and of the press.

Mr. Binder's draft resolution dealt with a specific example of one aspect of that deep-seated evil and he could only support its general principle.

Mr. Azkould feared that the reference to a provision of the International Telecommunication Convention in the text of the draft resolution might create difficulties. The fact that only one of the many provisions of that Convention dealing with limitations was mentioned might be taken as evidence of partiality. Furthermore, the reference to the Convention justified Mr. Azmi's amendment. Besides, it must not be forgotten that provisions concerning the procedure to be followed in cases of violations were included in the convention itself.

The General Assembly's resolutions were based on the provisions of the Charter or of the Universal Declaration of Human Rights. For that reason, the draft resolution would be more forceful if its third paragraph were deleted.

/ Mr. Azkoul

Mr. Azkoul further recalled that the representatives of the USSR had been the first to mention names of States in the text of resolutions. That innovation had never found much favour. The draft resolution would lose none of its forcefulness if the reference to the USSR in the fifth paragraph were eliminated. No one would be in any doubt regarding what country was meant.

Finally, Mr. Azkoul suggested deletion of the clause in the fifth paragraph beginning with the words "in violation of...". He did not think that the Sub-Commission could say that the USSR had violated the provisions of the Atlantic City Convention without first carrying out an investigation and legal study of the question.

Mr. AZMI withdrew his amendment and supported Mr. Azkoul's suggestions.

Mr. A. UINO pointed out that the operative part of the draft resolution would lose much of its force if the preamble were weakened by the deletion of the third paragraph. He conceded that the Sub-Commission should venture cautiously on legal ground but pointed out that it was not necessary to be a legal genius to realize that jamming of radio broadcasts was a violation of the

/provisions of

provisions of the Convention. It was in fact one of the most serious obstacles to the exercise of freedom of information and one of those most to be condemned.

The Sub-Commission should not allow itself to be hampered by legal subtleties. Since it could denounce violations of the Charter or the Universal Declaration of Human Rights, a fortiori, it could state that the Atlantic City Convention had also been violated.

Mr. AZKOUL said that he would be compelled to vote against the whole resolution if the words which he wished deleted in the fifth paragraph were retained. In his view, it would be very difficult to obtain the approval of the Economic and Social Council and the General Assembly for a resolution worded in those terms.

The CHAIRMAN, speaking in his personal capacity, emphasized the difference between article 44 of the Convention and the provisions referred to by Mr. Azmi: article 44 dealt solely with freedom to broadcast and receive news, while the articles mentioned by Mr. Azmi in support of his amendment referred only to means of communication other than radio broadcasts.

Mr. DEBIJER pointed out that the broadcasts which the USSR was accused of jamming were of a rather dubious nature; it was in fact very difficult to determine where information ended and propaganda began.

/Moreover,

Moreover, some members of the Sub-Commission seemed to consider Mr. Binder's draft resolution as part of the fight against communism. Mr. Dedijer stressed that the United Nations should not intervene in the "cold war", but should simply consider it as a threat to international peace and security. Mr. Dedijer therefore could not support Mr. Binder's draft resolution.

The CHAIRMAN said that the Sub-Commission was not combatting any particular ideology; it was fighting for the fullest possible freedom of information and of the press. It was not true to say that Mr. Binder's draft resolution was part of the fight against communism.

Mr. BINDER was in complete agreement with the Chairman. He would be equally opposed to any attempt on the part of any Member State to jam radio broadcasts to the United States emanating from the USSR or any other country with a communist regime.

Mr. AZKOWL wanted the United Nations to proclaim that totalitarian regimes constituted the greatest obstacle to the exercise of human rights and freedom of information. He thought that the fight against communism could be carried on, not by jamming radio broadcasts, but by trying to establish greater freedom in the distribution of information in communist countries.

/ Thus, it was

Thus, it was not his intention to suggest measures similar to those in force in totalitarian countries.

With regard to the text of the draft resolution, Mr. Azkoul said that even if his suggestion for the deletion of the third paragraph were not accepted, he would not vote against the draft resolution as a whole, because no judgment was pronounced in that paragraph. But if the words which he had asked to delete in the fifth paragraph were retained, he would have to vote against the draft resolution because he did not see how the Sub-Commission could make such a judgment.

Mr. BINDER agreed to delete the words "in violation of the obligation undertaken by the USSR under the Atlantic City Convention".

The CHAIRMAN put to the vote Mr. Azkoul's proposal to delete the third paragraph.

Mr. Azkoul's proposal was rejected by 7 votes to 2, with 2 abstentions.

/The CHAIRMAN

The CHAIRMAN put to the vote Mr. Azkoul's proposal to delete any specific reference to the USSR in the fifth paragraph.

Mr. Azkoul's proposal was rejected by 5 votes to 5 with one abstention.

Mr. GERAUD said he had abstained from voting and would abstain in all votes on Mr. Binder's draft resolution. The draft resolution was in fact based on article 19 of the Universal Declaration of Human Rights. While propaganda might legitimately be used in a cold war to fight for a cause, it was the duty of the Sub-Commission to make a distinction between freedom of information and freedom of propaganda; it could not invoke a provision of the Declaration to justify what was propaganda rather than information.

Mr. AZKOUL requested a separate vote on the third and fourth paragraphs.

/The first

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The first paragraph was adopted by 9 votes to none, with 2 abstentions.

The second paragraph was adopted by 8 votes to none, with 3 abstentions.

The third paragraph was adopted by 7 votes to one, with 3 abstentions.

The fourth paragraph was adopted by 6 votes to 2, with 3 abstentions.

The remaining paragraphs of the draft resolution were adopted by 8 votes to none, with 3 abstentions.

The draft resolution as a whole, as amended, was adopted by 8 votes to none, with 3 abstentions.

The meeting rose at 5.45 p.m.