

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS

SECOND SESSION

EXAMINATION OF THE RIGHTS, OBLIGATIONS AND PRACTICES WHICH SHOULD
BE INCLUDED IN THE CONCEPT OF FREEDOM OF INFORMATION AND THE
PROBLEMS REVEALED IN THE COURSE OF THIS EXAMINATION

(MEMORANDUM SUBMITTED TO MEMBERS OF THE SUB-COMMISSION BY M. ANDRE GERAUD)

(1) Thought is free. No one has the right to dictate the thoughts of others.

(2) Every person has the right to publish what he thinks and what he knows to explain his ideas, to relate facts, to use all methods of expression.

(3) Every person has this right, not only in respect to himself, but on behalf of others. It is important that the people should be kept informed and enlightened on all manifestations of human activity, and in particular, on current events.

The right to freedom of thought and freedom of expression entails certain duties, namely:

(1) The obligation not to publish information which should be kept secret in the interests of national defence and public safety.

(2) The obligation not to promote crime and disorder; in the case of all persons living in a foreign country, the obligation to respect local sovereignty and systems of government.

(3) The obligation to refrain from publication of matter questioning the fundamental freedoms; of obscene publications, matter injurious to the independence of the judiciary, or the untrammelled course of justice, and of any publication abusive of or defamatory to the reputation of others.

(4) The freedom of the press and of information should not be exercised in such a manner as to produce actual monopolies on the national or international level, either by recourse to cartels, or by continued domination of the organs used, or by means of "dumping". Just as all opinions should be freely expressed inside a country, there should be freedom of expression in the international field; each nation should be allowed to make itself heard,

/particularly

particularly when affairs of direct concern to it are under discussion. We are living in an age of "mass media", of journalistic mass production, where the machine dominates the individual, where large undertakings, with ample means at their disposal, have the upper hand over small and medium-sized undertakings. A safeguard is necessary.

Freedom of the press and of information varies from age to age: it is defined by the algebraic equation of rights and duties.

The concepts underlying the rights of the press and of information are contained in few words: freedom, responsibility, and reasonable equality.

In the application of these principles, the end to be pursued is to obtain for the public the fullest possible enlightenment on contemporary events. Not only full and accurate information is required, but also explanations calculated to make the largest possible number of people understand the events which are going on in the world, and particularly to explain questions vitally affecting the life and property of everyone.

Amongst the obstacles which hinder intelligence and factual knowledge, must first be mentioned those related to the influence exerted on the press and information by the government of a country and by what is known as the power of money.

(1) The authority or influence exercised by governments over the press and information varies in different nations. At one end of the scale appear absolute methods of control which make newspapers and radio merely the instruments of power. At the other end of the scale, government activity is restrained. It respects appearances and is maintained in every case by means of the mass of information obtained by the public services. The remedy is material independence of public authority on the part of the organs of information. Another remedy is the employment of editors capable of forming personal judgments and with a taste for independence.

(2) Only too often, the large sums of money required for starting and maintaining a modern newspaper end by producing a partial monopoly. It was estimated that in London, about 1935, it would cost four or five million pounds sterling to start a newspaper in competition with those already in existence. An overwhelming power is thus placed in the hands of a few people, or even of a single person. This power can be abused for personal ends. Even when exercised in good faith, it is subject to error and, in consequence, may lead the masses following it astray. It is the penalty of the regime of free enterprise, to which recourse must be had in order to create organs of information independent of the government, capable, if the need arises of contradicting the government and of denouncing its weaknesses or its failure

/by revealing

by revealing certain facts. It is not a good thing to put all one's eggs in one basket. Thus the consequences of the mistakes made by any individual press organ are lessened.

We are up against a double paradox.

The first paradox: on the one hand, we expect large amounts of capital to be invested in newspapers. On the other hand, we hope that their owners, who are often business men with insufficient knowledge of politics will sacrifice to the public good the great opportunities for making profit placed within their reach.

The second paradox: on the one hand, we expect that in a régime of free enterprise, the press will fulfil its essential functions: to enlighten public opinion and to criticize the government. On the other hand, we want the government to have the power to check and to suppress monopolies, to correct the mistakes which arise in the journalistic field, and to remedy abuses. Is not this a contradiction in terms?

(3) Similar problems with results peculiar to each country appear in the international field. Modern journalism took shape in industrial countries with a great concentration of capital. Inequality in the sphere of journalism and information became evident from the very beginning between these countries and others with a less advanced capitalist organization.

The above-mentioned inequality was accentuated during the war because of devastation throughout the greater part of Europe. Today in journalism as in so many other questions we are forced to distinguish between the countries with a hard currency and those with a soft currency. In the countries with a soft currency the lack of paper paralyzes the press, and the cost of maintaining a correspondent abroad is almost prohibitive. This inequality which is not too obvious today is calculated to grow worse as new inventions are used, such as radio electric transmission and rapid broadcasting methods which make it possible to print the same periodical simultaneously in various places in the world.

The concentration of capital and the advent of "mass media" brand modern journalism with a regrettable tendency to commercialize information and culture by seeking the sensational. In many cases journalism strives to amuse and to divert rather than to instruct and to explain. Newspapers often turn to circus methods of representation. Without dwelling on extreme examples, it must be remembered that news is often given from an angle or with a twist which will make it more spicy. That cannot be done without changing the perspective, altering values and upsetting proportions. The tyranny of "the headline" should be denounced. Contemporary journalism suffers from
/these practices

these practices which make it inevitable to employ a staff very different from that employed in former days. The influence of newspapers for good but not for evil can only be diminished by this.

There is no one remedy to these problems as a whole. One can only indicate a series of palliatives.

(1) In the national field: control of capital investment and accounts, publicity, measures to close the road to cartels, organization of the journalistic profession, disciplinary advice, code of honour. When we say control, we mean legal control and not control by the government of the day. Legal control means control exercised on the level of judiciary and administrative action and not on the level of executive action. In England, in the case of two well-known periodicals, recourse was had to "boards of Trustees" whose duty it was to see that the paper only made a responsible use of its power. That procedure should be retained, though it cannot be said that the worst mistakes in policy have been avoided.

(2) In the international field: study of means to correct the existing material inequalities between the impoverished States and the others. As regards the use of "mass media" there should be bilateral conventions in which two States would grant each other the greatest possible facilities. Bilateral agreements might merge in multilateral agreements. Measures should be taken to counteract the effect of false reports and particularly of tendentious and lying campaigns which are more easily defined. The system of censorship should be regulated when it is impossible to obtain its suppression. Defamation should be checked, there should be a right of international reply, and it should be possible to grant and withdraw the international press card.

An international organization might help to develop international co-operation in matters of press and information. However, its value will be merely the same as the co-operation on the supreme question of war and peace. The international organization should at first have limited powers and be of modest dimensions. Only by experience will it be possible to appreciate what can be achieved. Nothing would be more harmful than a numerous bureaucracy ruling over a void. At first it would be reasonable to envisage the co-ordination in the various countries of efforts to obtain a better state of affairs with regard to the freedom of the press and information and to diminish or obviate the obstacles mentioned above.