



ECONOMIC AND SOCIAL COUNCIL

Twenty-ninth Session

OFFICIAL RECORDS

Tuesday, 5 April 1960
at 3.20 p.m.

NEW YORK

CONTENTS

	Page
<i>Tribute to the memory of Tuanku Abdul Rahman, Paramount Ruler of the Federation of Malaya</i>	5
<i>Agenda item 11:</i>	
<i>Question of a declaration on freedom of information</i>	5
<i>Agenda item 12:</i>	
<i>Procedure for the study of the question of capital punishment</i>	8

President: Mr. C.W.A. SCHURMANN
(Netherlands).

Present:

Representatives of the following States: Afghanistan, Brazil, Bulgaria, Chile, China, Costa Rica, Denmark, France, Japan, Netherlands, New Zealand, Poland, Spain, Sudan, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Observers for the following Member States: Albania, Argentina, Australia, Austria, Canada, Dominican Republic, El Salvador, Haiti, Hungary, India, Indonesia, Ireland, Mexico, Peru, Philippines, Tunisia, United Arab Republic, Uruguay, Yugoslavia.

Observers for the following non-member States: Federal Republic of Germany, Holy See.

Representatives of the following specialized agencies: International Labour Organisation; Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization.

The representative of the International Atomic Energy Agency.

Tribute to the memory of Tuanku Abdul Rahman, Paramount Ruler of the Federation of Malaya

1. The PRESIDENT invited the Council to observe a minute's silence in memory of Tuanku Abdul Rahman, Paramount Ruler of the Federation of Malaya.

The Council observed a minute's silence.

AGENDA ITEM 11

Question of a declaration on freedom of information (E/3323 and Add.1-4)

2. The PRESIDENT recalled that the question of a declaration on freedom of information had first been discussed by the Council at its twenty-seventh session.

It had been discussed again at the twenty-eighth session and the Council had adopted resolution 732 (XXVIII), embodying a draft declaration. Governments had since been asked to submit their comments on the principle of the adoption of such a declaration and on the draft declaration itself. So far, thirty-five Governments had replied and those replies were to be found in the documents before the Council (E/3323 and Add.1-4). He invited members of the Council to express their views on the subject.

3. Mr. PHILLIPS (United States of America) recalled that his delegation had been one of those which had introduced the proposal for a draft declaration on freedom of information at the Council's twenty-seventh session.^{1/} It believed freedom of information to be one of the principal objectives of the United Nations and, indeed, the corner-stone of liberty. The number of replies to the Secretary-General's inquiry in pursuance of Council resolution 732 (XXVIII) was encouraging and showed the great interest Governments took in the subject. It was noteworthy that more than three-quarters of the replies received were in favour of the draft declaration. He could not agree with the view that the consideration of a draft declaration at the present time would prejudice the work of the General Assembly on a convention on freedom of information. He noted that the Government of France had stated (E/3323/Add.2) that the adoption of such a declaration would be more likely to facilitate the preparation of the draft convention, in the same way as the Universal Declaration of Human Rights had been of help in the drafting of the two international covenants on human rights. His delegation therefore earnestly hoped that the Council would be able to agree on the text of a declaration at the current session.

4. Mr. SHANAHAN (New Zealand) found it encouraging that thirty-five Governments had responded to the Secretary-General's inquiry concerning a draft declaration on freedom of information, and stressed the importance to be attached to the endeavours to give form to such rights. It was only to be regretted that, despite the efforts made by various organs of the United Nations, so little had been achieved in the matter of freedom of information since 1948. His delegation considered that it would be appropriate and valuable for the United Nations to adopt an international instrument in the form of a declaration to ensure the full and free exchange of information throughout the world, and felt that the draft declaration embodied in Council resolution 732 (XXVIII) could usefully serve as the basis for such an instrument. However, the General Assembly had embarked on the detailed drafting of a convention on freedom of information and, although the draft convention in its present form could not, in the view of the New Zealand Government, adequately meet the purpose of ensuring the fullest possible freedom of information, the delegation was not persuaded it would be opportune for

^{1/} See *Official Records of the Economic and Social Council, Twenty-seventh session, Annexes*, agenda item 10, document E/L.824.

the Council to undertake detailed examination of the draft declaration while the draft convention was under active study in the General Assembly. Nevertheless, it had been noted from the replies submitted by Member Governments that the weight of opinion appeared to favour the Council's proceeding with the declaration at the twenty-ninth session, and the New Zealand delegation would therefore not stand in the way of further and more detailed study of the declaration being made at the current session.

5. Mr. DUDLEY (United Kingdom) said that the adoption of a declaration on freedom of information had the full support of his Government. A declaration would serve a useful purpose whether or not a convention on the subject was ultimately adopted, just as the Universal Declaration of Human Rights would retain its value even after the adoption of the draft covenants. Accordingly, he hoped that the Council would complete its work on a declaration and leave it to the General Assembly to decide when it wished to consider it. The draft declaration annexed to resolution 732 (XXVIII) was satisfactory to his Government, and he would be content if the Council decided to transmit it as it stood without discussion to the General Assembly, together with the comments of Governments (E/3323 and addenda); however, if it was to be discussed in detail in the Social Committee, he reserved the right to offer suggestions or amendments to it.

6. Mr. MELJER (Netherlands) said that his delegation also favoured the adoption by the Council of a declaration on freedom of information. It would be a step forward towards general recognition of the right to seek, receive and impart information, and towards the ultimate goal of a convention on the subject. The Netherlands delegation would submit suggestions for the amendment of the draft text in the course of a detailed discussion and would be glad to consider any constructive proposal to that end on its merits.

7. Mr. MATSUDAIRA (Japan) said that his delegation was eager to participate in any effort to guarantee a high standard of freedom of information throughout the world and therefore favoured both a convention and a declaration on the subject. Thus far, United Nations work on the question had yielded meagre results: only article 19 of the Universal Declaration of Human Rights contained a precise statement of the right to freedom of information. A declaration should confine itself to stating basic principles, and the proposals of the French delegation in that respect (E/3323/Add.2) should be given careful consideration. It would be advantageous for the Social Committee to discuss the present draft text in the light of the various proposals put forward by Governments.

8. Mr. SOSA RODRIGUEZ (Venezuela) said that his delegation favoured the adoption of a declaration on freedom of information on the understanding that it would not be a substitute for a convention on the subject. A declaration of general principles would have great moral force, it would expedite the drafting of a convention and its adoption would be far easier to secure than that of a convention. The Council's work on a declaration should not, however, delay the progress of efforts to complete the preparation of a convention.

9. Mr. CHENG Paonan (China) emphasized that freedom of information was essential to the preservation

of world peace, and that the cause of peace would be well served by the adoption by the United Nations of both a convention and a declaration on the subject. He reviewed past United Nations efforts in the field of freedom of information, observing that the original recognition of that right as a factor for peace had become somewhat obscured by the more recent stress placed on such technical aspects as the development of information media and the training of information personnel. Moreover, United Nations efforts had failed to restrain the censorship of news dispatches, the jamming of radio broadcasts by a number of countries and the propagation of hatred through information media when they were controlled by the State. In his view, the absence of freedom of information had substantially contributed to the cold war; only through lack of information and understanding between peoples could hatred be incited.

10. A declaration on freedom of information and a convention on the same subject were not mutually exclusive. A convention aimed at guaranteeing maximum freedom and not at imposing maximum restrictions could secure a large number of ratifications and prove effective. A declaration based on the principles stated in article 19 of the Universal Declaration of Human Rights, and representing a common standard of achievement, should command wide support by Governments and strongly influence information media. It was significant that the impact of the Universal Declaration of Human Rights on public opinion was perhaps even greater than that which might be made by legally binding covenants on human rights.

11. Mr. HESSELLUND-JENSEN (Denmark), noting that the principle of freedom of information was laid down in Denmark's Constitution, said that his delegation favoured the adoption of a declaration on the subject.

12. Mr. DE LEQUERICA (Spain) said that, in the view of his delegation, the importance of the principle of freedom of information could not be overemphasized. In keeping with the views which his Government had submitted to the Secretary-General (E/3323), the Spanish delegation would not, in any event, object to the adoption of the declaration in question. It would have wished, nevertheless, that the Council had disposed of fuller information based on the views of the countries which had not yet replied to the Secretary-General's inquiry, as that would have made for faster progress and greater efficiency.

13. Mr. MICHALOWSKI (Poland) said that his Government continued to hold the view that the draft convention on freedom of information was the most appropriate basis for the work of the United Nations in that field. The only logical conclusion to be drawn from the history of the consideration of the question by the United Nations was that the international instrument on freedom of information should take the form of a convention, and it was in that form that the problem was before the General Assembly.

14. The General Assembly had made its view on the matter quite clear: by resolution 1313 (XIII), it had decided to proceed, at its fourteenth session, to a discussion of the text of the draft convention; under resolution 1459 (XIV), it had decided to give priority to the item at its fifteenth session. The tasks assigned by the Assembly to the Council, its Commission on Human Rights and UNESCO were of an entirely dif-

ferent nature: those bodies were expected to embark on a study of the more specialized aspects of freedom of information. The Council, for example, had been requested to formulate a programme of concrete action for the development of information enterprises in under-developed countries. The Commission on Human Rights had concentrated on practical measures to be taken in the field of freedom of information to ensure the availability of adequate media of information and the free flow of undistorted information, with special emphasis on the development of national and regional information media in the less developed countries.

15. Consideration by the Council of the text of a declaration on freedom of information would prejudice the implementation of the programme elaborated by the Commission on Human Rights, particularly with regard to assistance to the less developed countries, and would undermine the Commission's prestige. Only one-quarter of the total membership of the United Nations had expressed itself in favour of the adoption of a declaration on freedom of information, and article 19 of the draft covenant on civil and political rights^{2/} might be regarded as tantamount to such a declaration.

16. Mr. PAZHWAK (Afghanistan) said that it was because he recognized the importance of freedom of information that he was so anxious that nothing should be done which would impede or delay the work on the draft convention. There was no need for a declaration; it already existed in article 19 of the Universal Declaration of Human Rights. Moreover, the majority of the members of the General Assembly were in favour of a convention, whereas only thirty-five Governments had commented on the desirability of the adoption by the United Nations of a declaration on freedom of information and of those only seventeen had expressed unqualified approval of such a course. He therefore thought that the Council should at least wait until it knew the views of other Member States before taking up the question, although he was of course prepared to abide by the majority view. Should the Council decide not to postpone its consideration of the question, it would be helpful if the Secretariat were to prepare a document showing the amendments to each article proposed by Governments. It would also be necessary to consider carefully whether the question should be discussed in plenary session or in the Social Committee.

17. Mr. AUBOIN (France) felt that, far from obstructing the General Assembly's work on the convention, a declaration would facilitate it by helping to establish the general principles which should underlie the convention. It therefore seemed desirable to proceed at once to define those principles.

18. The draft convention was only one of three instruments which, together, were designed to safeguard freedom of information and there was no doubt that they would not all be adopted and come into force for a considerable time. The link between the declaration and those instruments would be similar to that between the Universal Declaration of Human Rights and the two draft covenants on human rights which were still being considered by the United Nations. Article 19 of the Universal Declaration mentioned the principles only incidentally, in succinct terms; if the principles were defined, briefly but with precision, in

a declaration, freedom of information would benefit from a protection which it did not enjoy at present. He accordingly hoped that the Council would complete its work on the declaration during the current session.

19. Mrs. MIRONOVA (Union of Soviet Socialist Republics) observed that if the Council were to discuss and adopt a declaration at a time when the General Assembly had already begun to consider the draft convention, it would be complicating the Assembly's work. The Assembly had itself considered the desirability of a declaration and, after lengthy discussions, had by a considerable majority decided in favour of a convention. It attached the greatest importance to its rapid completion.

20. The number of Governments which had commented favourably on the proposal for the adoption of a declaration on freedom of information was far less than the number of States which had supported the idea of a convention in the General Assembly. She therefore felt that the Council should at least wait until it had received further comments from Governments before taking any decision. The General Assembly could not consider a declaration and the draft convention simultaneously. It would have to decide to which it should give priority and, should it decide in favour of the declaration, that would delay its work on the draft convention and the taking of concrete measures to ensure freedom of information for a considerable time. She believed, however, that were the General Assembly faced with a choice, the majority would decide that priority should be given to the draft convention and such a decision would place the Council in an awkward position. She accordingly hoped that the Council would decide to postpone consideration of a declaration until work on the draft convention had been completed.

21. Mr. ORTIZ MARTIN (Costa Rica) said that, as one of the sponsors of Economic and Social Council resolution 732 (XXVIII), he had favoured the adoption of the course which it recommended because he believed it was incumbent on the United Nations to promote freedom of information by every means in its power, and that a declaration would have great moral influence. That would not preclude simultaneous work on the draft convention, the purpose of which was to lay down the concrete measures to be adopted to ensure observance of the principles set down in the declaration.

22. Mr. SCHWEITZER (Chile) said that there was complete freedom of information in Chile. His delegation also had been one of the sponsors of resolution 732 (XXVIII) because it attached the greatest importance to freedom of information and believed that the declaration would help to promote it. Since a convention took a great deal of time to prepare and its implementation took even longer, he was convinced that a declaration of principles ought to be adopted forthwith. He did not believe that the adoption of such a declaration would delay work on the draft convention; on the contrary, it should speed it up.

23. Mr. PENTEADO (Brazil) felt that a declaration would be a step in the right direction and did not consider that it conflicted in any way with the eventual adoption of a convention.

24. Mr. GRINBERG (Bulgaria) said that he was in favour of concentrating on the completion of the work on the draft convention. It was now nearing a success-

^{2/} *Ibid.*, Eighteenth Session, Supplement No. 7, annex I B.

ful conclusion and the General Assembly had by a very large majority decided to give it priority. Every delegation which had voted for that course had in fact considered the alternative of a declaration before reaching its decision. Those representatives who maintained that it was not an alternative but that the declaration and the convention would supplement one another were not being logical. In the field of human rights the established practice was to prepare two kinds of documents, one containing general principles and the other detailed provisions. There was no room for the proposed declaration since article 19 of the Universal Declaration of Human Rights already laid down the principles. Moreover, article 19 of the draft covenant on civil and political rights would probably be adopted in the near future. What the draft declaration in fact did was to duplicate many of the points contained in the draft convention. The preambles were to all intents and purposes identical and, while there were fewer operative paragraphs in the declaration, nearly all the essential elements appeared in both documents. The General Assembly had shown its preference for the convention as an all-embracing legal document and he felt it would be wrong for the Council, with a membership less than a quarter of that of the General Assembly, to prepare a conflicting document. It should therefore postpone consideration of the declaration until the draft convention had been adopted.

25. Mr. ADEEL (Sudan) said that his Government had not yet taken a decision on the question of a declaration on freedom of information, but his delegation seriously doubted the value of discussing the draft of such a declaration at the current session when so many Governments were in a similar position. He was sure that when the Council had decided, at its twenty-eighth session, to consider the matter again at the twenty-ninth session, that had been on the assumption that all Governments would by then have replied to the Secretary-General's inquiry. In fact, only thirty-five had done so, and he did not think that that was a sufficient basis for a fruitful discussion.

26. The PRESIDENT stated that the debate on agenda item 11 would be pursued further in the Social Committee.

AGENDA ITEM 12

Procedure for the study of the question of capital punishment

27. The PRESIDENT observed that agenda item 12 arose out of General Assembly resolution 1396 (XIV). The question for the Council to decide at the present time was the procedural one, namely, how the proposed study should be carried out.

28. Mr. SCHWEITZER (Chile) observed that experts were divided on the subject of capital punishment, and that practice varied in different legislations. Public opinion also was split on the matter. It was for that reason that the General Assembly had, at its last session, decided to ask the Economic and Social Council to undertake a study of the whole matter. What was required, in his delegation's view, was a compilation of the facts, and it was its intention to submit a draft resolution^{3/} to the Council which would request the Secretary-General to prepare a factual review of the various aspects of the question of capital punishment, with the help of the Ad Hoc Advisory Committee of Experts on the Prevention of Crime and the Treatment of Offenders, for submission to the Council at its thirty-third session.

29. Mrs. MIRONOVA (Union of Soviet Socialist Republics) suggested that the Council should suspend discussion of the subject until it had seen the Chilean proposal in writing.

It was so decided.

The meeting rose at 5.25 p.m.

^{3/} Subsequently distributed as document E/L.857.