

## 2046th meeting

Monday, 3 December 1973, at 12.30 p.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.2046

### AGENDA ITEM 64

#### Freedom of information (A/8340, A/9076):

- (a) Draft Declaration on Freedom of Information;  
(b) Draft Convention on Freedom of Information

1. Mr. SCHREIBER (Director, Division of Human Rights) said that the General Assembly had been concerned with the item under consideration ever since its first session, having decided in resolution 59 (I) "to authorize the holding of a conference of all Members of the United Nations on freedom of information". The United Nations Conference on Freedom of Information had been held at Geneva in March and April 1948 and had prepared three draft conventions. At its third session the General Assembly had approved the draft Convention on the International Transmission of News and the Right of Correction but had decided that it should not be open for signature until the General Assembly had taken definite action on the draft Convention on Freedom of Information. The Third Committee had considered and adopted the preamble and four articles of the draft Convention on Freedom of Information at its fourteenth, fifteenth and sixteenth sessions; however, those texts had not yet been adopted by the General Assembly. The Economic and Social Council at its twenty-seventh and twenty-eighth sessions had prepared a draft Declaration on Freedom of Information and had requested Member States to submit observations with respect to it; in its resolution 756 (XXIX) it had transmitted the text to the General Assembly for consideration. The General Assembly had not been able to consider the draft at either the session during which it had received it or subsequent sessions. Document A/8340 gave detailed information on the subject and contained, *inter alia*, the text of the draft Convention on Freedom of Information.

2. Mr. BAROODY (Saudi Arabia) said that the item had become a perennial one, consideration of which had been avoided by having recourse to procedural devices and assigning it a false priority. In 1950 the Third Committee had set up a committee consisting of 15 Member States to prepare a draft Convention on Freedom of Information. Its Chairman had been the highly respected Mexican journalist Raúl Noriega and its composition had been well balanced. Although the members of that group had advocated the adoption of an instrument, the countries which had not been in favour of the draft—including the Western countries which had been the victors in the Second World War, especially the United States, but with the exception of France—had treated the item in the manner which he had indicated.

3. Information could be visual or auditory, and a distinction must be drawn between factual and conceptual information. Unfortunately, conceptual information lent itself to propaganda; opinions and indoctrination

formed part of the conceptual aspect. In conceptual information, the false and the true were confused, which made freedom of information essential. Given the power of the press, the Convention on the International Transmission of News and the Right of Correction had proved inadequate to remedy the harm done by distorted information. The basic concern related to conceptual information because propaganda, particularly in times of tension, generally distorted the truth.

4. With the split between the victors which occurred after the Second World War, some of them, particularly the United States, had not wanted the topic of freedom of information to be discussed. Once the war had been won, problems had arisen between those victorious Powers and they had become divided into two camps: on one side the capitalist Powers—the United States of America, the United Kingdom and to some extent France—and on the other, the Union of Soviet Socialist Republics. China, which in those years had had internal difficulties to contend with, had remained apart from the controversy. The United States had not favoured the draft Convention on Freedom of Information, maintaining that no obstacles should be put in the way of the free flow of information. But for the great Powers the free flow of information was synonymous with indoctrination and propaganda, principally through such vehicles as the Voice of America and Radio Moscow. France and the United Kingdom had not participated directly in that propaganda contest. The small countries, including Saudi Arabia, had not wished to be victims of the great Powers or to allow themselves to be enslaved by their propaganda. Through the good offices of the representative of Mexico, and with the support of France, they had finally secured acknowledgement of the need for a convention on freedom of information and in 1950 the preamble and four articles had been adopted (A/8340, annex I).

5. Referring to article 2, paragraph 1, of the draft Convention, he recalled that it had been at the insistence of France that the restrictions suggested in that text included a restriction in respect of public order, *ordre public*, a French concept which it had been difficult for the northern countries to accept and the inclusion of which had been opposed by the United States. That country had likewise not wanted to accept restrictions in respect of attacks on founders of religions, incitement to violence and crime, and public health and morals; but the excesses which had been witnessed in recent years in the United States and Europe—the promotion of pornography and licence in sexual conduct, the lack of respect for the figure of Christ in films and in the theatre in the United States and the United Kingdom, the violence and the rebellions—had shown how necessary such restrictions were. Paragraph 2 of that same article, on the other hand, had been included at the wish of the United States, and he acknowledged that the right to criticize Governments was justified. The text of article 5 (*ibid.*, annex II) in itself explained

the objections voiced by some States in the 1950s when the war in Korea was being waged. Those States had not been able to accept, for example, subparagraph (d) because what they had wanted at that time was not freedom of information but freedom of propaganda and indoctrination. With reference to article 7 (*ibid.*), he said that the world could not afford to continue without some kind of machinery to protect freedom of information.

6. He recalled that references had repeatedly been made to the three actions characteristic of the press in presenting information: slanting, silencing, or scissoring so as to exclude certain elements. The Americans had perhaps been right when they had affirmed that only States which had taken over the organs of the press could control information; however, that did not justify

licence in the countries of the so-called free world, which, in fact, enslaved and demoralized. The United States had always asserted that it was necessary to safeguard the free flow of information, without any kind of interference by Governments. Perhaps, then, an International Court of Ethics for the Press could be established which would favour the dissemination of information, would control information and would be guided by a code worked out by the international press associations.

7. Finally, he expressed the hope that at the next session priority would be given to the item, so that the Convention on Freedom of Information could be completed, since only one or two substantive articles remained to be considered.

*The meeting rose at 1.20 p.m.*

## 2047th meeting

Monday, 3 December 1973, at 3.10 p.m.

*Chairman:* Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.2047

### AGENDA ITEM 64

#### Freedom of information (*concluded*) (A/8340, A/9076):

- (a) Draft Declaration on Freedom of Information;
- (b) Draft Convention on Freedom of Information

1. Mr. VELA (Guatemala), referring to the draft Declaration on Freedom of Information (A/8340, annex VI), recalled that that freedom was already clearly affirmed in the Universal Declaration of Human Rights. That was why the second preambular paragraph of the draft was the most important. Freedom of opinion and freedom of expression were moral necessities which could not be restricted. He wondered why the last preambular paragraph mentioned books, for freedom of expression in respect of books should be greater than in respect of all other means of expression.

2. Article 5 of the draft Declaration could hardly be construed as confirming the intention to reaffirm and defend freedom of information. The article stipulated "the rights and freedoms proclaimed [in articles 1 to 4] above should be universally recognized and respected, and may in no case be exercised contrary to the purposes and principles of the United Nations". It was true that the principles of the United Nations were universal and must be respected at all times and in all places. But article 5 also mentioned the various limitations which could be placed on those rights and freedoms to meet such requirements as those relating to national security, public order and morality. Such concepts were often subjective; the press, for example, had often been censored for reasons of morality. No one was in a position to judge what constituted "general welfare in a democratic society", except Governments which sought to muzzle the mass media.

3. The draft Convention (*ibid.*, annexes I and II) also reflected the paternalistic attitude of the Third Commit-

tee and, moreover, presented difficulties for his delegation. As the representative of Saudi Arabia had pointed out at the preceding meeting, the second sentence of article 2, paragraph 1, contained reservations which were unobjectionable, but which had nothing to do with the dissemination of information, a public service provided by private enterprises. That was the only way in which the information media could escape State control over information, but it obviously did not preclude the possibility that a State itself might disseminate information. In article 5, it was stated that "each Contracting State shall encourage the establishment and functioning . . . of one or more non-official organizations". It would be better to say that States should not prevent the establishment or functioning of non-official organizations, for article 7 made it clear that all rights belonged to States and that the Convention could not limit them in any way. Article 7 also stated that a State could take measures it deemed necessary to protect its national news enterprises. But protect them from what? Such protection could give those national enterprises some advantages over independent enterprises, but it could also take the form of direct or indirect restrictive measures, designed, for example, to prevent the waste of public funds.

4. He believed the texts of the draft Convention and the draft Declaration should be studied in depth and that they should, perhaps, be reworded so as to modify their scope. While it might be desirable to give States sufficient freedom to enable them to counteract propaganda, false reports and incitement to hatred, that could lead to abuses and enable States or other pressure groups to oppose freedom of information, which would be counterproductive. That might perhaps be attributed to the fact that freedom of opinion was also mentioned in the draft Convention. Information must be as objective as possible. As had been stated at an earlier session, the most important thing was to educate those who received and transmitted information, be-