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Chairman: Mr. Eduard MEZINCESCU (Romania).

In the absence of the Chairman, Mr. Farhâdi (Afghanistan), Vice-Chairman, took the Chair.

AGENDA ITEM 35

Draft Convention on Freedom of Information (A/AC.42/7 and Corr.1, annex; A/3868 and Add.1-8, A/4173 and Corr.1 and Add.1-3, A/4401, A/C.3/L.879, A/C.3/L.881, A/C.3/L.883, A/C.3/L.885-886) (continued)

ARTICLE 2 (continued)

1. Mr. DJOHAN (Indonesia) said that although the drafting of a convention on freedom of information had been a controversial subject since its initiation, a more constructive approach was now discernible. Article 2 of the draft Convention (A/AC.42/7 and Corr.1, annex), in seeking to define the necessary limitations without impairing the very essence of a basic right, raised a most delicate issue, but one of the purposes of the United Nations was to solve delicate problems in a spirit of compromise.

2. Any freedom that was not accompanied by the corresponding responsibilities could easily lead to anarchy and chaos, and the concept of responsibility could not be separated from the idea of limitations. The basic aim was nevertheless to protect freedom and to use it for the positive purpose of securing the well-being of peoples and of individuals. If article 2 was considered in that light, the formulation of the limitations clause would become little more than a technical problem.

3. His delegation had listened with great interest to the representatives who had explained their views on article 2, and had observed that, while some believed in the unrestricted exercise of freedom, others could not conceive of freedom without certain responsibilities. That divergence of views reflected ideological differences but it was important to remember that the proposed Convention was not meant to impose a particular way of life upon those who wished to maintain their own traditions. It had been rightly pointed out that it was not a question of reducing the different conceptions of freedom of information to their lowest common denominator. Nevertheless some States might consider that some traditionally accepted limitations were necessary to prevent certain abuses. Moreover, with the world becoming smaller every day and information media becoming increasingly powerful, an

increase in, or even a continuation of, international tension was bound to be extremely dangerous. A convention must be drafted which would ensure the greatest possible degree of freedom of information but which would not prevent States from concerning themselves with the quality of information and which would at the same time be conducive to international understanding.

4. The limitations listed in article 2 should be considered from that point of view. Their sole purpose was to ensure the flow, at both the national and the international level, of constructive information. Moreover, the word "may" in article 2 left no doubt as to the optional rather than obligatory nature of the limitations and consequently no State could be forced to adopt them. The original text of article 2 was in general acceptable to his delegation: it specified clearly the limitations permitted and offered more effective safeguards against arbitrary actions than a more general text, although the detailed enumeration might give a contrary impression. The five-Power working paper (A/C.3/L.880) had been of great assistance to the Committee; Brazil and the other nine sponsors of the amendment contained in document A/C.3/L.885 were also to be congratulated on their constructive efforts to help delegations to find common ground.

5. He felt confident that if the Committee could keep its common goal in mind it would be able to draft a limitations clause acceptable to a large number of delegations. His delegation reserved the right to speak again, if necessary, to explain its position on the various amendments before the Committee.

6. Miss DOBSON (Australia) recalled that her delegation had, on many occasions, at the fourteenth session and at various stages in the study of the subject, expressed its views on the draft Convention of Freedom of Information. While not intending to recapitulate those views, she wished to explain her delegation's attitude to the basic article now under discussion.

7. Her delegation shared the views expressed by, among others, the representatives of France, Denmark, Sweden, Norway and the United States. It was perfectly natural that many States should be in favour of the establishment of a convention on freedom of information and her delegation would not oppose the adoption of such an instrument by States which considered it necessary. Australia was opposed not to the principles set forth in the draft but to the adoption of a convention of any kind on the subject, because any regulation of freedom of information accompanied by the inevitable limitations would result in restricting freedom rather than protecting it. In Australia, a democratic country with a tradition of a free Press, the exercise of freedom carried with it a sense of responsibility, and that strengthened her delegation's view that a convention containing an article such as article 2 would not have the effect intended. The individual circumstances of the various countries were so diverse that it seemed impossible, in spite of the efforts made

to that end, to find a basis for agreement, and her delegation believed that the proclamation of a declaration on freedom of information would be a more appropriate procedure. The various amendments and suggestions put forward, particularly the eight-Power amendment (A/C.3/L.886) and the ten-Power amendment (A/C.3/L.885), represented sincere efforts to avoid the dangers attendant on the formulation of limitations but they did not go far enough. A tendency to insert an increasing number of limitations in article 2 had become apparent during the debate, and that would inevitably weaken the impact of the Convention. Excessive restrictions could certainly not lead to the freedom desired. Moreover, many of the limitations enumerated in article 2 were not clearly defined and some might prove extremely difficult to apply.

8. She would like to add that the fact of film censorship in Australia mentioned in the debate obviously referred to the exercise of certain standards in the field of public entertainment as distinct from the media of information, a kind of control which existed in one form or another in a great many countries.

9. Mr. ILVESSALO (Finland) said that as the concept of justice and the laws in his country had evolved along much the same lines as those of the Scandinavian countries, and were derived from a common heritage of ideas and traditions, he had little to add to the statements made by the representatives of Denmark, Sweden and Norway. He need only say that in Finland freedom of speech and freedom of information, which were guaranteed by the Constitution Act of 1919 and by the Act on freedom of the Press, were regarded as fundamental principles necessary to the proper functioning of democracy. Naturally, the exercise of any right involved corresponding responsibilities; Finnish legislation accordingly contained provisions concerning libel, slander and the like. He might add that information harmful to relations between Finland and foreign Powers was punishable under the criminal law in certain well-defined cases.

10. His delegation was prepared to give sympathetic consideration to any measure intended to safeguard freedom of information more effectively, but had serious doubts about the limitations provided for in article 2. While the Committee was concerned with drafting a convention on freedom of information, article 2 seemed only concerned with circumscribing that freedom. His delegation was convinced of the sincerity of those responsible for drafting the text transmitted to the Committee but believed that in its existing form article 2 offered too much scope for arbitrary interpretations. He would draw the Committee's attention to the fact that even the freedom to gather and receive information was subjected to the limitations prescribed in article 2, and that seemed scarcely compatible with the Committee's desire to promote freedom of information. His delegation regretted therefore that it could not vote in favour of the original text of article 2. The amendments submitted might perhaps improve the text, but they did not remove its main weakness; in other words they did nothing to prevent article 2 being interpreted as a means of legalizing interference and they provided no guarantee against arbitrary and abusive action of that kind.

11. Mr. AGOLLI (Albania) stressed that the adoption of such an important instrument as the Convention which the Third Committee had the task of preparing would strengthen international standards in the field of

information. The right to disseminate information and opinions was a fundamental one from the economic, political and cultural points of view, and the free exchange of news, which enabled peoples to get to know each other better, was a factor for peace. That was, in his delegation's view, the significance of article 1 of the draft Convention.^{1/} Article 2 dealt with the responsibilities involved in the exercise of freedom of information, and his delegation considered that the permissible limitations mentioned in it were indispensable and self-explanatory. Information media exerted considerable influence on public opinion, and consequently assumed great responsibilities from the point of view of good international understanding. News should therefore be precise and accurate and should not mislead the public or jeopardize, directly or indirectly, the relations between States.

12. Under article 20 of the Albanian Constitution, all citizens enjoyed freedom of expression, of assembly, of association and of demonstration. Albania was not afraid of the truth because truth was part of its doctrine. But it deemed it essential to combat distortions of the truth and tendentious news calculated to stir up racial and national hatred and to promote the machinations of those who sought to start a new war. Such abuses bore no relation to real freedom of information.

13. The principle of non-interference in the internal affairs of States was one of the fundamental principles governing international relations; it was in harmony with Albania's policy and Albania would support article 2 on that point. The adjustment, regulation and limitation of freedom of information, in so far as they were necessary, ought not to hamper the dissemination and free exchange of news. It must not be forgotten that unscrupulous journalists were always liable to spread incorrect sensational news which might jeopardize the relations between States; it would be dangerous and illogical to leave them a clear field and not to put a stop to practices aimed solely at increasing the circulation of newspapers. A situation in which some people, acting in the interests of private enterprise, made use of freedom of information to deceive the public, could not be tolerated. The Press and all other information media should be at the service of the people: they should not only help the public to acquire the necessary political maturity, but also ensure that a healthy moral atmosphere prevailed. It was therefore necessary to ban obscene and pornographic matter, which was particularly harmful for young people. Article 2 quite rightly contained a clause to that effect.

14. His delegation thought that freedom of information should be so organized as to help broaden the horizon of the peoples and to guarantee better respect for human rights, through the elimination of racial discrimination and of Nazi and fascist propaganda, and the suppression of all attempts to disseminate false information or information calculated to offend the dignity or the honour of peoples. His delegation would therefore vote for the original text of article 2. With regard to the amendments, it considered the ten-Power text (A/C.3/L.885) acceptable and reserved the right to speak again on the others.

15. Mr. BARODY (Saudi Arabia) said that the ten-Power amendment (A/C.3/L.885), of which he was one of the sponsors, was the product of a sincere effort at

^{1/} See Official Records of the General Assembly, Fourteenth Session, Annexes, agenda item 35, document A/4341, annex.

conciliation. The text took account of the Saudi Arabian proposal (A/C.3/L.884), which therefore no longer existed as a separate amendment.

16. When he had proposed the insertion of an additional paragraph in article 2 (A/C.3/L.881), his intention had been to rule out the possibility of a Government's taking advantage of the limitations mentioned in paragraph 1 to impose a preventive censorship in normal times or to introduce arbitrary measures impeding freedom of information. In the course of private conversations which he had had with a number of delegations, he had met with a favourable response. However, some representatives, including the United Kingdom representative, had argued that, when a Government took restrictive measures which were specifically provided for, it ought not to be obliged to consult the national associations of the Press or other media of information. Moreover, it was beyond dispute that the Government ought to be able, without consulting anybody, to prevent the publication of a pornographic magazine or the showing of an obscene film. In that field the exercise of preventive censorship was perfectly justified; otherwise the publication or film in question could not be prohibited until after the moral harm had been done and the publisher or producer would meanwhile have had time to make substantial profits. In that connexion he asked the Secretary of the Committee to state whether the word "information" in the present draft Convention applied to any visual or auditory material, including such things as films, prints or radio broadcasts, as was the case, as far as he remembered, with the draft Convention on the International Transmission of News and the Right of Correction, which had not yet been opened for signature. If that was so, the prohibition of preventive censorship would infringe the right possessed by all Governments to take the necessary steps to protect public morality and would play into the hands of powerful groups which, for pecuniary gain, did not hesitate to exploit the public's baser instincts.

17. He also thought that the anxiety expressed by the Argentine representative was quite justified. When a Government wished to restrict freedom of information, it could decree that all dispatches of press correspondents or all leading articles, for example, would have to be examined, before publication, by a body specially established for that purpose, which, whatever its official title might be, was really an organ of censorship. Yet every person had the right to know the facts, and the imposition of a preventive censorship was justified only in cases where public morality had to be protected.

18. In those circumstances, in an attempt to solve the dilemma with which the Committee was faced, he had decided to withdraw the proposal circulated as document A/C.3/L.881 and to submit formally an amendment^{2/} calling for the insertion in article 2 of a paragraph 2 with the following wording: "Nothing in paragraph 1 shall be deemed to justify the application of any arbitrary measures which would violate freedom of information."

19. Mrs. BONDAR (Ukrainian Soviet Socialist Republic) said that she would not go over the background of the draft Convention on Freedom of Information, which was well set out in the various documents submitted to the Committee and had, moreover, already

been dealt with by a number of speakers. Nevertheless, she felt she should emphasize the fundamental nature of the draft under discussion. Both the previous debates on the text in various United Nations organs and the specialized agencies and the observations on it submitted by Governments, showed that opinion was divided on several of its provisions.

20. As all delegations had recognized at the fourteenth session, media of information were nowadays able to exercise a considerable influence on public opinion. It was, therefore, very necessary that they should be responsible for the content of the information they disseminated.

21. Free dissemination of true and objective information must be encouraged and guaranteed if friendly relations between peoples and the progress of mankind were to be effectively promoted. False, distorted, or evil-intentioned information, examples of which had been given by many representatives, was extremely harmful because it attacked the dignity of individuals and peoples. The most effective way to avert that danger was to impose exact responsibilities on organs of information. That was the purpose of the limitations laid down in article 2, which was the veritable touchstone of the whole Convention. Contrary to the fears of some delegations, article 2 did not limit freedom of information itself and could not impair the exercise of that freedom. A close study of the text revealed that the limitations laid down were directed against those who abused freedom of information and made use of it to deceive public opinion. The role of the limitations was similar, for example, to that of the police or the courts in all countries: they sought to prevent individual persons from damaging the whole fabric of society by abusing their rights. The limitations laid down were even more necessary because abuses in the field of information did more harm than any criminal action. A single journalist on the lookout for sensational news, for example, was frequently sufficient to nullify the entire work of a responsible Press.

22. She would support the text of article 2 before the Committee, as well as the Cuban amendment (A/C.3/L.879), which suitably completed it. She was also in favour of the ten-Power amendment (A/C.3/L.885), which could provide an acceptable basis for the drafting of the final wording of the article.

23. Mr. SCHWELB (Secretary of the Committee) explained, for the benefit of the Saudi Arabian representative, that in the draft Convention on the International Transmission of News and the Right of Correction, which the General Assembly had approved in 1949 (resolution 277 C (III), annex), but which was not yet open for signature by States, the expression "news material" meant all news material, whether of information or opinion and whether visual or auditory, for dissemination to the public. That definition was in accordance with the usual practice of United Nations organs. Thus, for example, article 19 of the Universal Declaration of Human Rights specified that everyone had the right "to seek, receive and impart information and ideas through any media", and article 19 of the draft Covenant on Civil and Political Rights (E/2573, annex I B) recognized for everyone, *inter alia*, the right "to seek, receive and impart information and ideas... either orally, in writing or in print, in the form of art, or through any other media of his choice". Moreover, in article 1 of the draft under discussion it was laid down that the States parties to the Convention must

^{2/} Subsequently circulated as document A/C.3/L.887.

secure freedom to gather, receive and impart information and opinions orally, in writing or in print, in the form of art or by visual or auditory devices. Consequently, the clause proposed in the eight-Power amendment (A/C.3/L.886) would also apply to the censorship of radio and television broadcasts and to censorship of films.

24. The problem of prior censorship had already been considered on many occasions by various United Nations organs. In the beginning, the Sub-Commission on Freedom of Information and of the Press had decided to include in article 17 of the draft Covenant on Human Rights a paragraph forbidding prior censorship of written and printed matter, the radio, and newsreels, and that paragraph had been rejected by the United Nations Conference on Freedom of Information held at Geneva in 1948. The question had again been raised by the Netherlands delegation in 1949 when the Third Committee was considering the draft Convention on Freedom of Information. On that occasion, the Netherlands delegation had submitted an amendment to add the following paragraph to article 2: "No Contracting State shall, however, impose censorship in peacetime on news material, except on grounds of national defence" (A/C.3/L.494).^{3/} That amendment had been rejected by the Committee because it was too general in character, and also because some delegations had thought it necessary to retain censorship of radio broadcasts and films. Lastly, in 1951 the Committee on the Draft Convention on Freedom of Information had also not included a provision regarding prior censorship in the text now before the Committee.

25. Begum Aziz AHMED (Pakistan) said that she appreciated the very sincere effort made by all the sponsors of the ten-Power amendment (A/C.3/L.885) to submit to the Committee a text for article 2 which the majority of delegations could accept. Her delegation was particularly grateful to them for having tried partly to meet the intention of her own amendment (A/C.3/L.883) by inserting in their text the words "protection of public health and morals, and of the rights, honour and reputation of persons, natural or legal". However, that phrase, which was less explicit than her amendment, also had a more restricted meaning. The same objection applied to the phrase "prevention of systematic circulation [...] of expressions inciting to war or to national, racial or religious hatred" which, in the view of some delegations, in-

cluding the Ghanaian, contained the same idea as her amendment. She stressed that her delegation's intention was to make Governments forbid any expressions of opinion which, because they concerned the founder of a given religion, were deeply wounding to the followers of that religion. The ten-Power text did not go as far and its scope was further limited by the use of the expression "prevention of systematic circulation".

26. For those reasons, and also because a number of delegations had supported the intention, if not the wording, of her amendment to article 2, her delegation could not withdraw it. In order that her amendment should not be dismissed if the ten-Power text was adopted, she proposed the insertion in that text, after the words "national, racial or religious hatred", the phrase "for the prevention of attacks on founders of religions". In that position, the phrase would offer a guarantee against expressions of opinion circulated not only systematically but also occasionally. Her delegation would be grateful to the sponsors of the ten-Power amendment if they would accept the suggestion which she had worded in succinct terms in a spirit of compromise. If they incorporated it in their text, she would be pleased to join them in sponsoring the amendment; otherwise, she would submit a sub-amendment to their present proposal.

27. The CHAIRMAN invited the Pakistan delegation to submit its proposal^{4/} in the form of a separate document, without waiting for the sponsors of the ten-Power amendment (A/C.3/L.885) to take a decision on the matter. That would enable the members of the Committee to give it proper consideration. Moreover, the first Pakistan amendment (A/C.3/L.883) and the Cuban amendment (A/C.3/L.879) would not be put to the vote unless the ten-Power text was rejected.

28. In a procedural discussion, Mrs. DEMBINSKA (Poland) and Mrs. CHERKASOVA (Byelorussian Soviet Socialist Republic) pointed out that their statements at the 1035th meeting had not been reported correctly.

29. The CHAIRMAN assured both representatives that the statements in question would be corrected.^{5/}

The meeting rose at 12.40 p.m.

^{4/} Subsequently circulated as document A/C.3/L.888.

^{5/} The statements of the Polish and Byelorussian representatives at the 1035th meeting were later corrected in accordance with corrections received from those delegations.

^{3/} See Official Records of the General Assembly, Third Session, Part II, Third Committee, 213th meeting.