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Chairman: Mr. Eduard MEZINCESCU (Romania).

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) (continued)

ARTICLE 2 (continued)

1. Mr. BARODY (Saudi Arabia) recalled that the Philippine representative had made a very valuable personal contribution to the study of freedom of information by preparing an excellent report on that subject in 1953.^{1/} He urged the Philippine representative to open the debate on article 2 of the draft Convention (A/AC.42/7 and Corr. 1, annex) by giving the Committee the benefit of his wide experience.

2. Mr. LOPEZ (Philippines) said that the atmosphere which had been growing in the Third Committee in recent years seemed propitious for drafting a text of article 2 of the draft Convention on Freedom of Information which would be acceptable to most delegations. He was all the more gratified because that article, which was the most controversial of the entire draft, was also, with the possible exception of article 5, the most important. It could be the rock on which the whole effort of drafting a convention on freedom of information could founder or it could be a rock of salvation.

3. As was clear from the report of the Committee on the Draft Convention on Freedom of Information to the Economic and Social Council (A/AC.42/7 and Corr.1), the crux of the matter with regard to article 2 was to decide whether the text should be brief or whether, on the contrary, there should be a detailed enumeration of all the possible limitations on freedom of information. The Committee on the Draft Convention on Freedom of Information had rejected the concise text proposed by the United States (see A/AC.42/7 and Corr.1, para. 114) and had successively adopted, mostly by a very small majority, each of the sub-paragraphs of the text now under consideration. The Philippine delegation had always favoured a concise text for article 2. The instrument which the Committee was preparing was a convention on freedom of information, not on restrictions on freedom of information. In order to ensure effective

protection of a right and guarantee its free exercise, provision must of course be made for some limitations, but without over-emphasizing them at the expense of the right itself. Furthermore, no enumeration of admissible limitations on freedom of information could be exhaustive and if the Committee tried to make it so, that might negate the very freedom which the article was intended to proclaim. In view of the diversity and number of the limitations imposed on the Press and on information media in Member States, it would be a burdensome if not impossible task to draft a detailed and complete provision which would meet the wishes of every one of the ninety-nine States represented on the Committee. Only an *ad hoc* committee on compilation could examine and compare the innumerable restrictions which each delegation would be entitled to propose and combine them in a single text; the preparation of the draft Convention would be greatly delayed, if not actually jeopardized.

4. In that connexion, he drew the Committee's attention to the comments he had made on article 2 of the draft Convention in his report on freedom of information submitted to the Economic and Social Council at its sixteenth session.^{2/} His delegation still held the view he had expressed in 1953; it hoped that the Committee would give very careful consideration to the two ways of formulating article 2 and would adopt a shorter text than the one now before it. Article 19 of the Universal Declaration of Human Rights and article 19 of the draft Covenant on Civil and Political Rights were precedents for brevity. Some delegations had pointed out that the draft Convention on Freedom of Information was devoted to one single right and must therefore contain a more detailed list of limitations than the more general instruments already in existence. Such an argument seemed rather specious. The decision to draw up a convention on one of the rights proclaimed in the Universal Declaration and in one of the draft Covenants had been taken because there had been a feeling that freedom of information was a prerequisite for the protection of all the other freedoms, not because it had been thought necessary to define in greater detail either that freedom or the limitations which might be imposed on it. At a time when world peace and even the very existence of mankind were in jeopardy, it was the duty of the United Nations to bring to a successful conclusion all the efforts to ensure freedom of information which had been made since the end of the First World War. It was more imperative than ever to draw up a convention on freedom of information. Indeed, all the efforts to achieve disarmament, guarantee human rights and freedoms, eliminate racial prejudice or promote the economic well-being of peoples would be in vain if the right of all peoples to know and understand each other better was not guaranteed and if the obligation

^{1/} Official Records of the Economic and Social Council, Sixteenth Session, Supplement No. 12.

^{2/} *Ibid.*, pp. 16-17.

to respect that right, to promote it and to create conditions under which it could be fully exercised were not accepted by States. The Philippine delegation had always been convinced that it was necessary to prepare a detailed instrument on freedom of information as soon as possible. He therefore welcomed the fact that the preparation of a declaration on the same subject (which he had recommended in his report in 1953, while pointing out the differences that there should be between such a declaration and a draft convention) had not delayed or interfered with the consideration of the draft Convention.

5. The Convention must of course define freedom of information. It must also—and that was the aim of article 2—state how far that freedom might be restricted for the purpose of ensuring that no person in exercising it interfered with the rights of others. The Committee should have a clear idea of the limitations it wished to permit, but it should not enumerate them in too much detail. In his delegation's view, it would be sufficient to give a general indication that admissible limitations were those which, being clearly defined by law and applied in accordance with the law, were necessary for the protection of national security, the prevention of disorder or crime, the protection of public safety, health or morals, the protection of the rights and reputations of others or for ensuring the fair administration of justice. In that form, article 2 could be accepted by the majority of the countries represented on the Third Committee, for most of the limitations laid down in their national legislations would come under one or other of those general headings. The Philippine delegation hoped that the Committee would give some thought to its suggestion.

6. Certain limitations had been proposed in the ad hoc Committee of Fifteen which applied to the dissemination of information or opinions constituting propaganda for war or advocacy of racial discrimination. The Philippine delegation felt that those limitations should not be spelled out in article 2, but in article 5, which defined the objectives to be aimed at by all persons employed in the gathering or dissemination of information. It would seem preferable to make the information services responsible for combating war and anti-racial propaganda, rather than to prohibit them from engaging in such propaganda. Furthermore, it would be very difficult to give those limitations a sufficiently precise formulation for inclusion in article 2. That article was to be drafted in legal terms so that its provisions could be incorporated in the national legislation and applied by the courts of every country.

7. Turning to the means of application of article 2, he emphasized that the only measure of implementation in the draft Convention was in article 12. If a dispute of minor importance arose between States, it was hardly likely that it would be submitted to the International Court of Justice if negotiations failed. For that reason it would be advisable to provide for a special commission to deal with complaints concerning possible violations of the Convention; however, the provision should not be in the Convention itself but in an additional protocol. That commission of inquiry or conciliation would function with the assistance of the public authorities, associations of journalists and other information media and its purpose would be to ensure that the provisions of the

Convention were respected without any too direct intervention by the public authorities. He did not think that the time was yet ripe for a decision on that point, but he felt that the question of measures of implementation of the Convention was particularly relevant to article 2. Thought must be given to what action would be taken if any of the limitations were disregarded; if there was to be some kind of co-operation between the public authorities and the persons and associations concerned with the dissemination of information, that in itself would facilitate the drafting of a generally acceptable text for article 2 and perhaps for article 5 as well.

8. Miss GRIÑAN (Cuba) said that her delegation maintained the second amendment it had submitted at the previous session to article 2 (A/C.3/L.832). Certain representatives had pointed out to her, however, during unofficial talks, that false or erroneous information was liable to create tensions not only in international relations but also between racial, national or religious groups. Her delegation would therefore delete in the text of its amendment the words "the country's" and add the words "or in the relations between racial, national or religious groups"; the text would then reflect the same attitude as the resolution on manifestations of racial and national hatred, which the Third Committee had adopted by a practically unanimous vote (998th meeting).

9. Mr. KANO (Nigeria) wished to explain the views of his delegation on the draft Convention in general. It was important that new Member States which had not yet been able to take part in United Nations work should make their position clear on certain projects that had been undertaken. He would approach the matter not from the legal but from the practical standpoint.

10. There was no lack of information media, including radio, the Press, films, television, books and works of art, but the important thing was to make good use of them. The African countries, including Nigeria, had often had cause to complain of what was written or said about them. He cited several examples to illustrate that point and in particular the fact that African and Asian peoples were often referred to as "coloured peoples". The term, while not incorrect, was insulting; why should that description be confined to the peoples in question when there was no one in the world whose skin could be called colourless? Incomplete information was no less dangerous: textbooks in use in various European countries devoted fifty pages to Europe, fifty to America and only half a page to Africa. In the same way, television often gave such an incomplete and restricted view of reality that the countries concerned appeared in an unfavourable light, since the viewers were not shown a session of the Nigerian Parliament or the life of a student at a Moroccan technical institute, or a Ghanaian school in action but merely a number of scenes that were anachronistic and misleading. Newspaper reports—to give another example—were often so incomplete that they conveyed a wrong idea of life in certain countries. One journalist after a visit to an African country said he had been impressed by the number of lizards; he had not noticed the streets or the swimming pools or the schools. What was still more serious was that false information was published, sometimes even in the great daily news-

papers. In a recent issue of The New York Times it was stated that a commission of inquiry, after a three months' stay in Nigeria to examine the prospects of setting up a clothing factory in the country, had reached the conclusion that caution was necessary because certain colours were offensive to the Nigerian people. That was very far from the truth; the Nigerian people, in common with the other African peoples, liked all colours without exception.

11. He therefore believed that the Third Committee, in preparing a draft convention on freedom of information, should seek to prevent the dissemination of false and biased information and to ensure respect for the dignity of peoples. It was extremely important to impose certain limitations on freedom of information if abuses were to be avoided. The responsibility in that respect rested with countries in possession of powerful information media; it rested not only with public authorities but also with the Press and, generally speaking, with all those concerned with the dissemination of information. The small countries which had recently attained independence could not harm anyone in that respect, for they had none of the technical equipment necessary.

12. It was important to remember that by attacking the dissemination of false, biased and incomplete information much could be done to avoid resentment and to encourage peace and international understanding.

13. Mr. FARHADI (Afghanistan) said that he had listened with appreciation to the Nigerian representative's remarks, which certainly expressed the views of many delegations. The Press in the more developed countries too often tended to present certain distant countries as museums of quaint objects. Since man's thoughts undoubtedly reflected his personality, the taste for the sensational shown by certain journalists and their readers did them no credit. But it was the under-developed and still little known countries which suffered from the excesses of sensational newspapers. All men of whatever race had coloured skins, and the only colourless man ever heard of was the invisible man of H. G. Wells.

14. He had noted the Cuban representative's explanation concerning her delegation's amendment. He would be grateful if the Philippine representative would submit his proposal concerning article 2 as a working document, since that would certainly facilitate the Committee's work.

15. Mr. LÓPEZ (Philippines) replied that he would be pleased to do so.^{3/}

16. He thought that the Nigerian representative had stated the question clearly, but wished to point out that the Third Committee was particularly concerned with the question of false and biased information.

17. Mr. BAROODY (Saudi Arabia) congratulated the representative of Nigeria who, although he had not been present at previous sessions, had at once put his finger on the crucial point at issue. The question

^{3/} The text of the Philippine suggestion was subsequently circulated as document A/C.3/L.878.

of abuses of freedom of information had been considered at great length by the Committee during the general debate on the draft Convention at the fourteenth session. That debate had shown that the real problem was not a financial but a moral one. If real freedom of information was to be achieved, and by that he meant exact, complete and undistorted information, it was not sufficient for every country to possess powerful information media; it was equally essential that those employing the information media should do so with integrity and objectivity. When the under-developed countries had reached an adequate level of development they should not repeat the mistakes made by certain great Powers and return insult for insult. In the days of silent films it had been easy to recognize the villain by the fact that he was a native of an Asian country. The Governments of the countries concerned had protested to the Governments of the countries where the films had been produced but they had been told that the producers and directors enjoyed complete freedom of action and that the public authorities could not therefore intervene. When certain Asian countries had in turn developed a cinema industry they had presented the natives of other countries in the guise of gangsters, and had given the same reply to the protests which had followed. But the problem was not solved by being in a position to reply to insult by insult. The real need was to discipline the freedom of information and to make information agencies maintain standards of professional conduct similar to those existing in the liberal professions. That was a particularly difficult task, since thought could be expressed in an infinite variety of ways. Journalism had been deteriorating for some thirty years. There were still competent and conscientious journalists, but there were too many who found it more profitable to please the public, either by publishing sensational news or by praising, regardless of circumstances, the policy followed by their own countries. When false or distorted information had been published the exercise of the international right of correction, which was the subject of a separate convention (see General Assembly resolution 630 (VII), annex), was not really a remedy at all. Corrections were rarely read and even if they were, an unfortunate impression remained.

18. The Convention on the International Transmission of News (see General Assembly resolution 277 C (III), annex), which dealt with technical aspects of information, would be opened for signature by Member States only after the Convention on Freedom of Information had itself been adopted by the General Assembly. Such considerations were sufficient indication of the importance and urgency of the present draft Convention, especially at the present time, when there seemed to be a renewal of the cold war. He was not himself in favour of eliminating the list of cases in which freedom of information was subject to limitations, because to do so might detract from the value of the Convention, which was intended to encourage freedom of information, but not licence.

The meeting rose at 5.25 p.m.