



**C O N T E N T S**

	Page
Agenda item 28:	
Freedom of information: report of the Economic and Social Council ( <i>continued</i> ).....	315

**Chairman: Mr. Jiří NOSEK (Czechoslovakia).**

**AGENDA ITEM 28**

**Freedom of information: report of the Economic and Social Council (A/2705, A/2686, chapter V, section VI, A/C.3/L.447, A/C.3/L.448 and Add.1, A/C.3/L.449, A/C.3/L.450, A/C.3/L.451) (*continued*)**

**GENERAL DEBATE (*continued*)**

1. Mr. BEAUFORT (Netherlands) considered that, in view of the importance of freedom of information, it was not surprising that the United Nations and the specialized agencies had made such persevering efforts to promote and safeguard it. On the other hand, however, no one who was acquainted with the realities of current international relations could be surprised that those efforts had achieved so little. As the Rapporteur had said, they had reached their high point in 1948 at the United Nations Conference on Freedom of Information, which had adopted forty-three resolutions and prepared three draft conventions: one on the gathering and international transmission of news, a second on the institution of an international right of correction, and third on the general principles of freedom of information.<sup>1</sup>

2. The Economic and Social Council had not found it necessary to take action on many of those resolutions, and it had later transmitted others to appropriate organs and specialized agencies for study and suitable action.

3. With regard to the draft conventions, the first and second had been amalgamated in 1949 into a single Convention on the International Transmission of News and the Right of Correction (General Assembly resolution 277 C (III), annex). It had been adopted but not opened for signature because the work on the convention on freedom of information had not been completed. That draft had been referred in 1950 to an *ad hoc* committee which had drafted a preamble and nineteen articles;<sup>2</sup> but its recommendation for convening

a plenipotentiary conference had not been approved by the Council. Once again, as the Rapporteur had pointed out, the draft convention appeared to have suffered a serious setback. The following years had been years of postponement but, as he had stated in his report (E/2426), the Rapporteur believed that there was "a substantial body of opinion in the Assembly in favour of resuming consideration of the draft convention on freedom of information".<sup>3</sup> What really mattered was whether there was any chance that resumed consideration could possibly lead to the drafting of a generally acceptable convention. His Government had already had occasion to express its doubts about the value of such convention in the prevailing circumstances; it felt that a more or less detailed definition of the freedom of information would inevitably result in restricting that freedom instead of guaranteeing it.

4. While his delegation's position might be disappointing, it was certainly a realistic one. The current state of international relations would make the general acceptance and ratification of such an agreement difficult; moreover, even if international tension diminished, there would still be insurmountable obstacles. As his Government had stated, there was a preliminary condition that had to be fulfilled before it would be possible to define the freedom that it was hoped to guarantee: the contracting parties would have to agree on the meaning of the words "freedom" and "democracy". As soon as there had to be a compromise of fundamental principles, the object would be defeated.

5. It was well known that there were countries in which opinions could be freely expressed and others in which, despite their claims that freedom of information, freedom of assembly and freedom of the Press were guaranteed by law, those freedoms were nevertheless denied to the enemies of the prevailing system. That was not meant as a criticism but as an observation of fact; it had to be admitted that there were two fundamentally different concepts of freedom, and, that being so, a convention on freedom of information would be unthinkable, or at least meaningless. Behind the rigid system he had just mentioned lay the idea that it was absurd to grant the same rights to truth as to falsehood. In theory that idea was a sound one, but if it was to have any practical value, there would have to be an arbiter to decide between truth and falsehood. It was surely dangerous to leave that most important and most delicate task to the State, to one party, or to a ruling class. And yet, that was precisely what was happening in a great part of the world. That was a concept of freedom and of life which would never be accepted by the other part of the world. It would be wise to recognize that fact, rather than to try to reconcile the irreconcilable—the more so because in the Western

<sup>1</sup> See *United Nations Conference on Freedom of Information held at Geneva, Switzerland, from 23 March to 21 April 1948, Final Act* (United Nations Publications, Sales No.: 1948.XIV.2), annexes C and A.

<sup>2</sup> See *Official Records of the General Assembly, Seventh Session, Annexes*, agenda item 29, document A/AC.42/7 and Corr.1, annex.

<sup>3</sup> See *Official Records of the Economic and Social Council, Sixteenth Session, Supplement No. 12, p. 8.*

world there also existed divergences of opinion, in particular with regard to those restrictions on freedom of information which were always necessary and admissible. For all those reasons he agreed with the United Kingdom delegation that a convention would serve no useful purpose at the current time, and might even endanger the attainment of the desired end.

6. He realized that his views were not shared by all the members of the Committee; the eight-Power draft resolution (A/C.3/L.451) was the most striking proof of that. His delegation fully respected the opinions of others, even when it could not endorse them, and it hoped that the outcome would prove that it had been too pessimistic. For that reason, it would merely abstain from voting on the draft resolution.

7. It did not follow, however, that his delegation's position was that no action at all should be taken on the question of freedom of information. On the contrary, it believed that on a modest scale and for certain concrete purposes some progress was possible and advisable. Thus, for example, it gave its whole-hearted support to the seven-Power draft resolution (A/C.3/L.448 and Add.1).

8. There might also be other ways and means of promoting freedom of information. He was prepared to support concrete proposals designed to safeguard in all parts of the world a right and a freedom that had always been held in the highest esteem in the Netherlands.

9. Mr. VALLADARES (Honduras) congratulated Mr. López on the excellent work he had done as Rapporteur on Freedom of Information, but wished to give some explanations regarding the paragraph on Honduras, which appeared on page 8 of the supplementary report (E/2426/Add.1).<sup>4</sup> Freedom of information was fully respected in Honduras, and many newspapers and reviews of all complexions existed in that country. However, the penal code provided penalties in cases of abuse, in particular subversive propaganda against the Government or the law, and incitement to crime or offences against persons and property. Legal proceedings had been instituted against the two newspapers mentioned in the supplementary report and those responsible had fled in order to escape them. Thus there was no question of arbitrary suppression, and the steps taken had been perfectly legal.

10. Mr. PEREZ DE ARCE (Chile) emphasized the prime importance of freedom of information, which made it possible to establish between the peoples of the world a link which was essential at the current time. He also stressed the vigilance which was necessary to ensure the respect of a freedom so often threatened and drew attention to the important influence of an enlightened public opinion which, by an even greater insistence on the truth, would oblige information organs to observe the strictest accuracy. In the Chilean delegation's opinion, freedom of information could only be fully exercised if all information organs were free from governmental or other influence, if they had access to all sources of information and if they possessed the necessary technical resources. The principal organ of information was the Press, through which, since Gutenberg's time, the peoples of the world had been in touch with the outer world. The Press was not merely a means of transmitting news; it established a close link between the event, the journalist and the

public; if that link ceased to exist, the automatic consequence was an atmosphere hostile to truth, an indifferent public opinion and a Government which, having lost contact with the people, lost their confidence. The profession of journalist conferred not only rights and freedoms, but also duties and responsibilities; accordingly, those exercising it should be enabled to carry out their task with competence and integrity, subject to the supervision necessary to safeguard the interests of the community. Journalists should receive appropriate professional training and be sufficiently well paid to be able to work independently and free from material cares. In Chile there was a school of journalism which was attached to the university, and legal provisions defining the status of journalists were under consideration. A special welfare fund dealt with all problems relating to social security.

11. The United Nations had been dealing with the freedom of information since 1946. The question had been referred from one organ to another for eight years. It seemed that it had been sufficiently studied and that the time had come to take practical decisions consistent with the purposes and principles of the Charter. The Chilean delegation would like all Governments to accede, in the near future, to a convention concerning the freedom of information; it intended to put forward a draft resolution calling for an international conference to adopt the final text of such an instrument.

12. The Chilean Government was prepared to co-operate to the best of its ability in the implementation of resolution 522 (XVII) of the Economic and Social Council which was of considerable importance. He hoped that the provisions of paragraph 1 (c), (d) and (e) of resolution 522 A (XVII) and the provisions of resolutions 522 E, F and K (XVII) would make it possible to achieve tangible results rapidly. With regard to resolution 522 L (XVII), dealing with newsprint, a plant for the manufacture of cellulose was being constructed in Chile with the help of foreign capital and would free the country from the obligation of importing paper paid for in foreign currency. Resolution 522 J (XVII) deserved special attention on account of the prospects it opened up. The General Assembly should approve the authorization given to the Secretary-General by the Council; that was the object of the seven-Power draft resolution (A/C.3/L.448 and Add.1), of which Chile had been one of the sponsors. The object of the proposed technical assistance was primarily to develop national independent information undertakings through the joint action of the competent assistance bodies and the professional associations existing in the various countries.

13. In that connexion, the draft resolution submitted by Afghanistan (A/C.3/L.449) was not consonant with the proposed aims and the application of its provisions might involve dangers to the freedom of information. At all events, it was not desirable that the General Assembly should make recommendations concerning a right which belonged to all States. The proposal in question was not compatible with the permanent sovereignty of peoples and nations over their natural wealth and resources, a right which Chile had always championed.

14. Lastly, the Chilean delegation was in favour of the USSR draft resolution (A/C.3/L.447).

15. Mr. López was to be congratulated on the efforts he had made to give a detailed picture of the situation

<sup>4</sup> *Ibid.*, Supplement No. 12A.

in his report (E/2426 and Add.1 to 5). The conditions in which he had worked had unfortunately led him in certain cases into erroneous interpretations based on inaccurate, or incomplete, information. He himself (Mr. Pérez de Arce) would like to furnish some particulars regarding Chile. Before doing so, he noted that the Rapporteur on Freedom of Information had emphasized the deplorable effects of the "cold war"; actually, the abuses of freedom of information had aggravated world tension, which was the primary cause of the "cold war". In Chile, the history of the free Press was bound up with that of Chile as an independent nation since 1812, the year of the founding of *La Aurora de Chile* by Camilo Henríquez. Several were appearing in Chile, the oldest of them being *El Mercurio* of Valparaíso, founded in 1827, not to mention a number of periodicals and publications of various kinds. The Constitution guaranteed freedom of speech and freedom of expression for all, and offences were punishable as provided by law. Thus, the democratic principles proclaimed by the United Nations Conference on Freedom of Information held at Geneva in 1948 and reaffirmed by the World Congress of Journalists at Santiago de Chile in 1952 were applied in Chile. When a Chilean journalist committed an offence against the Press laws, the court judged the case under the provisions of a legislative text (*Decreto sobre abusos de publicidad y Ley de defensa de la democracia*) adopted in 1948 by a very large majority of both Chambers of the National Congress, which had included a large proportion of opposition members. In the case of the editors mentioned by Mr. López (E/2426/Add.1, p. 8), the procedural machinery had worked in the normal way and the accused had enjoyed full legal guarantees. One of them, a member of the staff of the newspaper *La Unión* of Valparaíso, had been acquitted. The Rapporteur, having no first-hand information, had been ignorant of those details, which the Chilean delegation had felt it essential to supply.

16. The question of news monopolies seemed to be one of the most serious of current problems. The Latin American nations had suffered from the pernicious influence exercised by all such enterprises, whether public or private, established in powerful countries and diverting news from its true purpose.

17. The Chilean Government hoped that the United Nations would take advantage of the opportunity offered to it of taking practical steps in a field which was of prime importance to one of its essential purposes, the defence of human freedom.

18. Mr. OBERG (Sweden) associated himself with the praise addressed to Mr. López by Mr. Edberg, who had represented Sweden at the eighth session of the General Assembly.

19. Several delegations had expressed disappointment at the slow progress of the United Nations so far as freedom of information was concerned. On the contrary, a tribute should be paid to the patience which the various bodies concerned had shown in dealing with such a delicate matter. Without that patience, the Committee might have had before it a draft convention which would have been satisfactory to no one. The eight-Power draft resolution (A/C.3/L.451) seemed questionable from a purely procedural point of view, since the General Assembly was master of its own agenda at each session. With regard to substance,

the Yugoslav representative had implied that, in his opinion, the mere existence of a convention would in itself be a guarantee of a higher degree of freedom of information. It was, however, doubtful whether such an instrument could have such an effect. A number of speakers had asserted that freedom of information was observed to the fullest degree in their countries, and Sweden would yield to no one on that score. If freedom existed practically everywhere, it should be very easy to conclude a convention, if indeed a convention was necessary. Experience had unfortunately shown that almost insuperable difficulties existed. The reason was that each country had its own interpretation of the expression "freedom of information". No purpose would be served by adopting a document in which the words did not have the same meaning for everyone. The Swedish delegation was therefore satisfied for the time being with article 19 of the Universal Declaration of Human Rights and would be prepared to make its contribution towards the drafting of a convention at some future time when the same words meant the same thing for everyone. In his report (E/2426), however, Mr. López had stressed the harmful influence of international tension, which seemed to be slackening. The Swedish delegation suggested that the draft convention should be referred back for reconsideration at the eleventh session of the General Assembly at the earliest. Apart from the considerations set forth by the Netherlands representative, there were practical reasons for such a reference. The convention should be based not only on the Universal Declaration of Human Rights but also on the relevant provisions of the covenants on human rights. The Third Committee had recommended that the draft covenants on human rights should be examined article by article at the tenth session of the General Assembly, which would take up time and would no doubt not leave much time to study the draft convention on freedom of information thoroughly.

20. Sweden had a particular interest in freedom of information, and its inhabitants had as much opportunity to be well informed as the citizens of any other country. The same advantages should be secured for all peoples, and that was why Sweden had joined in sponsoring the seven-Power draft resolution (A/C.3/L.448 and Add.1). The extension of technical assistance to a new field would, however, necessarily entail adjustments in the allocation of available funds, and the Third Committee would have to take its decision with due regard to the financial and other implications of the proposal. Several delegations had mentioned the number of books, newspapers and magazines published in their countries and the size of the broadcasting and television enterprises in operation. But the size of material facilities did not prove that freedom of information existed; it only represented a prerequisite of that freedom.

21. With regard to the USSR draft resolution (A/C.3/L.447), Sweden had not taken part in the Geneva Conference but had subsequently acceded to the International Convention concerning the Use of Broadcasting in the Cause of Peace,<sup>5</sup> whereas the Soviet Union had signed the Convention but had never ratified it. Every Government was, of course, at liberty to decide that a document signed by its plenipotentiaries

<sup>5</sup> See *League of Nations Treaty Series*, vol. CLXXXVI, p. 3011.

was unacceptable. But the USSR Government appeared to have changed its mind, and so it might have been expected to deposit its ratification with the Secretary-General, who, as the representative of the Legal Department of the Secretariat had pointed out at the 601st meeting, was authorized to accept such instruments. Sweden considered that so far the Convention had not justified the hopes which had been placed in it. Nevertheless, the Swedish delegation did not oppose the suggested transfer. It would, however, wish to hear all the arguments on the subject before taking a final decision.

22. The practice of jamming broadcasts had been mentioned during the debate. It would probably be advisable to add to the Convention an article prohibiting that practice. Foreign stations had sometimes broadcast incorrect news or unfair comments on Sweden, yet its Government had not considered jamming them, and the public would not have permitted it to do so. The reason was that the Swedes firmly believed in freedom of information and were convinced that, if truth and falsehood were left to compete freely, truth would have a fair chance of winning. That was also why Sweden doubted the value of a convention which would, at the current time, be unlikely to prohibit censorship and would be likely to leave scope for too many restrictions on real freedom of information.

23. The CHAIRMAN said there were no more speakers on his list and invited debate on the draft resolutions that had been proposed.

24. Mr. LOPEZ (Philippines) recalled that in the general debate (599th meeting) he had pointed out the necessity for the General Assembly to take steps to ensure that freedom of information would continue to be studied by the United Nations after the nineteenth session of the Economic and Social Council. In the rather improbable event of the Council's taking action on freedom of information he was convinced that such action would not duplicate that proposed by the Philippine delegation in its draft resolution (A/C.3/L.450).

25. According to that draft, the General Assembly, instead of appointing a new rapporteur, would establish a commission of three persons who would be entrusted with two tasks. The first would be to prepare a report, with recommendations, concerning the effect of the media of mass communications upon relations between peoples, with particular regard to war tensions. That was a particularly heavy responsibility at a time when the atomic age was opening and when the work of the organs of information was so closely linked with the maintenance of peace. The commission's second and no less heavy responsibility would be to make a world-wide survey of barriers to the free flow of news and information within countries and across national frontiers, and where practicable to make recommendations.

26. The value and usefulness of the work would, of course, depend on the composition of the commission. The commission's members should be eminent persons who were expert in the fields of law or information and enjoyed the confidence of all the States Members of the United Nations. The choice of such persons would not be easy, but he was convinced that the President of the General Assembly would succeed in appointing, from among the candidates nominated by the Member States, three persons of unquestionable professional competence and integrity.

27. The Philippine delegation had submitted the draft resolution because it felt that, the ground having been cleared by the Rapporteur on Freedom of Information, the time had come for a small commission to deal with certain particular aspects of the question as circumstances required and the General Assembly expressed the wish. That method was not new to the United Nations. The General Assembly had employed it in the past in connexion with both political and non-political questions, particularly human rights. He hoped the members of the Third Committee would give their whole attention to the draft resolution and make suggestions for its improvement.

28. Paragraph 2 (b) of the operative part of the draft resolution provided that the members of the commission should be selected by the President of the General Assembly, the selection to be announced before 30 March 1955; but that would hardly leave the President of the Assembly enough time if the ninth session ended on the target date (10 December). The Philippine delegation therefore proposed that, if the session ended on that date, the members of the commission should be appointed by the Secretary-General, who commanded as much respect as the President of the General Assembly.

29. Mr. TUNCEL (Turkey) reverted to the question whether the draft resolution proposed by the USSR (A/C.3/L.447) was in order. The Chairman had stated (599th meeting) that the draft came within the scope of the Economic and Social Council's report (A/2686)<sup>6</sup>. He had not forgotten that, but his misgivings lay in other directions and he would like to explain them.

30. The question of the transfer of functions and powers belonging to the League of Nations under international agreements was governed by resolution 24 (I) of the General Assembly, which consisted of three parts, IA, IB and IC.

31. If the USSR draft resolution was concerned with the functions of a secretariat, there was no need for a new General Assembly resolution—and on that point his opinion was shared by the representative of the Legal Department—since under part IA of resolution 24 (I) the Secretary-General already performed for the parties the functions pertaining to a secretariat formerly entrusted to the League of Nations.

32. Part IB of resolution 24 (I) dealt with functions and powers of a technical and non-political character. The General Assembly had made the Economic and Social Council responsible for dealing with that group of conventions, a group which included, for example, the conventions relating to narcotic drugs and to the traffic in women and children. Moreover, the Council had adopted decisions on the subject which had been approved by the General Assembly.

33. With regard to part IC, "Functions and Powers under Treaties, International Conventions, Agreements and Other Instruments Having a Political Character", the General Assembly had decided that it would "itself examine . . . any request from the parties". It was that phrase which caused his misgivings. If, as he was inclined to think, it was a political convention on which the Third Committee was being asked to take action,

<sup>6</sup> Official Records of the General Assembly, Ninth Session, Supplement No. 3.

the request should be made by a State which was a party to the convention. He was not satisfied that the USSR was competent to make it. Perhaps the Chairman would discuss the matter with the Legal Department of the Secretariat.

34. The CHAIRMAN recalled that the representative of the Legal Department had already spoken on the subject and had stated categorically that the USSR draft resolution was in order.

The meeting rose at 12.15 p.m.