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COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE SIXTY-THIRD MEETING

Held at Lake Success, New York
on Tuesday, 8 June 1948, at 10:45 a.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. MALIK	Lebanon
<u>Members:</u>	Mr. HOOD	Australia
	Mr. LEBEAU	Belgium
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. LARRAIN	Chile
	Mr. CHANG	China
	Mr. LOUTFI	Egypt
	Mr. CASSIN	France
	Mrs. MEHTA	India
	Mr. QULJANO	Panama
	Mr. LOPEZ	Philippines
	Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Mr. WILSON	United Kingdom
	Mr. FONTAINA	Uruguay
	Mr. VILFAN	Yugoslavia
<u>Also Present:</u>	Mrs. LEDON	Commission on the Status of Women
<u>Specialized Agencies:</u>	Mr. LEBAR	United Nations Educational, Scientific and Cultural Organization
<u>Non-Governmental Organizations:</u>	Miss SENDER	American Federation of Labor
	Mr. Van ISTENDAEL	International Federation of Christian Trade Unions
	Miss STUART	World Federation of United Nations Associations

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Articles 17 and 18

The CHAIRMAN pointed out that the Drafting Committee had transmitted to the Commission the text of articles 17 and 18 as adopted by the United Nations Conference on Freedom of Information. Amendments to that text had been presented by France, China and the Union of Soviet Socialist Republics (documents E/CN.4/82/Add.8, E/CN.4/102, and E/CN.4/95). She then opened discussion of the USSR amendment as the most removed text from the Geneva draft.

Mr. PAVLOV (Union of Soviet Socialist Republics) asked for separate votes on the three important principles in the USSR amendment (document E/CN.4/95, page 8): freedom of expression in accordance with the principles of democracy (first part of paragraph 1), limitation of that freedom against fascist and war propaganda (second part of paragraph 1), and government subsidy to democratic organs of the press (paragraph 2). All those principles should be acceptable to true believers in democracy.

Speaking on the second part of paragraph 1, Mr Pavlov stated that the bitter lesson of fascist and imperialist wars had shown the need to limit the freedom of expression of fascists who even now carried on their dangerous war propaganda, contrary to the desires of the people. The present amendment was drawn up in accordance with the General Assembly Resolution 127 (II) dealing with the publication of false or distorted reports likely to impair friendly relations among nations.

As regards paragraph 2 of the USSR amendment, Mr. Pavlov wished to correct certain allegations made at the time of a previous discussion

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of that question. The USSR amendment did not aim at nationalization of the press, nor would its results be as far-reaching as those achieved inside the Union of Soviet Socialist Republics where there was not only a tremendous circulation of the major dailies, but where all professional and other groups had, with government assistance, their own press organs which truly reflected the people's point of view.

The sole purpose of that amendment was to enable the people to avail themselves fully of their right of freedom of expression by providing that facilities for printing newspapers should be extended to them by their own governments. Such provision was also necessary to counter-balance the newspaper syndicates and monopolies through which, in many countries, small groups of people had complete control over the standardized news published in their papers. Mr. Pavlov referred to several such owners of newspapers, particularly in the United States of America and the United Kingdom. There had been a marked trend towards monopolization of newspaper publications in certain countries. Moreover, the owners of those syndicates were frequently connected with other big business concerns and thus reflected a different point of view from that of the people. That circumstance had been particularly apparent during the late President Roosevelt's electoral campaigns. Referring to a statement by the late Lord Northcliffe, owner of numerous British newspapers, that it was impossible to start a newspaper on less than two million, Mr. Pavlov stressed that it was extremely unfair that financial reasons should prevent the people ^{from} having newspapers reflecting their own views. There was no need to fear that government subsidization of newspapers would lead to government control of the latter since individual journalists had shown independence of view and objectivity, even under the system of newspaper syndicates. However, some influence by a democratic government was to be preferred to control of the press by

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business interests. In view of the importance of the matter, he asked for a roll call vote on his proposal.

Mr. QUIJANO (Panama) opposed government subsidy to organs of the press. It was undemocratic and would work against the principle of freedom of expression. Even control by small groups was to be preferred to the possibility of complete government control of the press through subsidies. He was therefore against the USSR amendment.

Mr. CASSIN (France) felt that the USSR provisions for implementing freedom of expression, while valuable, were inappropriate in the present context. The French delegation had always felt that freedom entailed responsibility, as reflected in the French amendment to article 17.

However, he would withdraw his own amendment to articles 17 and 18 in favour of the Geneva draft, provided the expression: "on his own responsibility" was inserted in the latter text. As regards the second part of paragraph 1 of the USSR proposal, he recognized the pernicious effects of war propaganda -- amply demonstrated at the unsuccessful disarmament conference of 1925 in Geneva -- but raised the question whether such provisions should be included in the present text. Referring to similar proposals previously discussed and rejected, he stressed the need for a strong, over-all limitation clause in article 2, and reserved the right to propose at a later date the necessary amendments to that article (~~in view of~~ ~~a provision relating to international co-operation requirements~~). He would vote against the USSR amendment, not because he objected to the principle proposed, but because such provisions belong to article 2.

/The CHAIRMAN

The CHAIRMAN, as representative of the United States of America, stated that she supported the wording submitted by the United Nations Conference on Freedom of Information.

Mr. CHANG (China) also supported the text submitted by the United Nations Conference on Freedom of Information, but proposed, in view of the previously agreed substitution of the word "opinion" for the word "thought" in the first line of the Geneva text, the following re-arrangement of the article: "Everyone shall have the right to freedom of opinion and expression; this right shall include freedom to seek, receive and impart information and ideas without interference and regardless of frontiers." The word "by any means" in the third line of the Geneva text seemed superfluous. He would not oppose, however, the inclusion of such an idea, but suggested that the words should be changed to: "through all media of expression".

Mr. MALIK (Lebanon) explained that he could not support the USSR amendment for the following reasons: the first sentence of paragraph 1 of that amendment imposed a limitation upon the freedom of expression, an absolute and unrestricted right. Furthermore, freedom of expression should be above guarantees of law which could be withdrawn at any time. He also questioned the desirability of singling out freedom of artistic representation from among other similar freedoms not mentioned.

As regards the second part of paragraph 1 of the USSR proposal, while he was opposed to fascism, he thought that it did not constitute the only evil of society; consequently such a provision would lead to further unnecessary enumeration. The main purpose was to lay down the positive and basic freedom of expression, limitations could be provided elsewhere.

Paragraph 2 seemed to imply a form of state control over the press which was as undesirable as control by private monopolies. He would like to see a completely free press which he was sure would be able to correct its own shortcomings.

He therefore suggested that the Commission should respect the decision of the Conference and adopt its better formulated text.

Mr. LEBEAU (Belgium) thought that the vote about to be taken did not relate to the ideas, but the formulation of the different proposals. He would vote against the USSR amendment in view of the fact that the other proposals were better formulated.

Mrs. MEHTA (India) felt that the Commission should accept the text which the United Nations Conference on Freedom of Information had adopted after thorough discussion.

Mr. WILSON (United Kingdom) also preferred the text submitted by the Conference. Referring to some remarks by the USSR representative, he pointed out that in any case the greater diversity in the opinions expressed in the United Kingdom indicated a condition fundamental to democracy.

The CHAIRMAN said that in view of her previous request that the Commission should confine itself exclusively to the consideration of broad principles, she would refrain from correcting some remarks made during the discussion.

Mr. HOCD (Australia) agreed with the foregoing speakers, in particular with the Lebanese representative. The USSR proposal resembled another proposal introduced during the last regular session of the General Assembly, and unanimously settled after prolonged debate. While that

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proposal had been treated as a political question, the Commission was at present concerned with the formulation of principles of human rights. He would therefore vote against the USSR proposal.

Mr. LARRAIN (Chile) shared the Belgian representative's views. He supported the principles underlying the USSR text, but felt that it was a question of choosing the most adequate draft.

Mr. LOUFI (Egypt), while sharing some of the views expressed by the USSR representative, supported the shorter and clearer text submitted by the Conference.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) observed that the Lebanese fear that mentioning the principles of democracy in the first sentence of the USSR proposal would unduly limit freedom of opinion and expression was particularly difficult to understand since democratic principles were the basis of the United Nations Charter and of the work of the Commission.

The second sentence of the USSR proposal was a logical sequence to the first, as it was aimed against fascism and aggression which were contrary to the principles of democracy. The United Nations would be as unsuccessful as the League of Nations had been in dealing with aggressors if it could not agree to take a clear stand against them. The terrific cost in lives of the last war surely should have taught some worth-while lessons.

The Lebanese representative had suggested that if limitations on freedom of speech were enumerated, the list should be complete and should include for example, a provision against pornography. There was an important difference, however, between specifying fascism and aggression, which had proved to be the worst scourges humanity had ever known and other /lesser evils;

lesser evils; and to fail to condemn them, particularly for such formalistic reasons as had been given, would be unfair and unjust to the hopes of millions of people throughout the world.

Mr. FONTAINA (Uruguay) pointed out that under the USSR proposal it might be possible to justify the control of information and the press exercised in Franco Spain. The word "fascism" did not technically include the Spanish regime, which called itself "phalangist", nor did it include imperialism and other "isms". The USSR text was therefore particularly restrictive and he would vote against it.

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) stressed the important substantive difference between the USSR proposal and the other proposals. The first part of the USSR draft was completely in accordance with the spirit and letter of the United Nations Charter in that it spoke of strengthening international co-operation in order to achieve world peace and security.

Referring to the point raised by the Uruguayan representative, Mr. Stepanenko recalled that in two different resolutions the General Assembly had pronounced the Franco regime in Spain fascist and the USSR draft, in speaking of fascism, would therefore necessarily include Franco Spain. It would moreover guarantee that the freedoms mentioned would be used in the interests of democracy. Not to limit the freedoms proclaimed in article 17 would be dangerous. The Nazis, prior to the Second World War had given an example of how the press could incite racial and national hatreds that led to war. As a member of a country whose losses were among the most severe of those endured by Nazi victims, he appealed to the members of the Commission to accept the USSR proposal in order to protect the world from a renewal of the catastrophe of war.

Mr. VILFAN (Yugoslavia) thought the discussion held at the previous meeting on the subject of the right to marriage had proved that members of the Commission could be convinced by arguments that explained a need felt by millions of people. The suggestion that it would be necessary to give a complete list of restrictions to freedom of opinion and expression if fascism and aggression were specified, was incorrect. The average citizen anywhere would probably not even know the meaning of the word pornography, for example; yet everybody in all parts of the world understood the difference between war and peace. Only recently when there had seemed to be a probability that another war could be avoided, people everywhere rejoiced. The Declaration on the Rights of Man could not fail, therefore, to mention the obligations of the press to fight against war.

Mr. LOPEZ (Philippines) opposed the USSR draft and supported the text adopted by the Conference on the Freedom of Information, with minor amendments. The Soviet proposal to state certain limitations on the right to freedom of opinion and expression was unnecessary in view of the provisions of article 2 of the Declaration. Mr. Lopez was willing, however, to consider the French proposal to strengthen article 2 by including in it reference to the requirements of international co-operation. Explicit restrictions on freedom of speech and of the press would threaten the whole principle of freedom, for in attempting to restrict the abuses of freedom, the basic freedom itself might be denied.

Mr. Lopez felt that in spite of the faults of the press in his own country he would be unwilling to exchange the system in use there for any system which would make the press a tool of the Government. With a free press there was at least a possibility of improvement, but there was no possibility for remedying a press

Mr. PAVLOV (Union of Soviet Socialist Republics) asked that paragraph 1 of his draft amendment should be voted on as a whole, as the statements made had indicated that members of the Commission who could not accept the second sentence would not accept the first sentence either. He was convinced, however, that history would justify his proposal.

The objection to including freedom of artistic representation unless scientific and other freedoms were mentioned seemed unfounded since the latter would be covered by freedom of speech and press.

Some representatives had objected to his proposal on the ground that it did not include an exhaustive list of the limitations on the freedom of speech and press. He was prepared to mention other limitations if it were so desired; but the USSR delegation had specified only those which it considered most important and most acceptable to the Commission. It was hard to imagine that anyone could seriously be opposed to prohibiting fascism and incitement to hatred.

In reply to the point raised by the Philippine representative, Mr. Pavlov said that the Nuremberg trials had shown ways for curtailing the freedoms and activities of the enemies of democracy without doing harm to democratic elements themselves.

A vote was taken by roll-call on paragraph 1 of the USSR proposal. The result of the vote was as follows:

In favour: Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia

Against: Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, Philippines, United Kingdom, United States of America, Uruguay

Absent: Iran

Paragraph 1 of the USSR proposal was rejected by thirteen votes to four.

A vote was taken by roll-call on paragraph 2 of the USSR proposal. The result of the vote was as follows:

In favour: Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia

Against: Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, Philippines, United Kingdom, United States of America, Uruguay

Absent: Iran

Paragraph 2 of the USSR proposal was rejected by thirteen votes to four.

The CHAIRMAN turned to consideration of the proposed French amendment to add to the first line of article 17 the words "on his own responsibility".

Mr. LEBEAU (Belgium) did not think the meaning of the words proposed was clear.

Mr. WILSON (United Kingdom) recalled the history of the article under consideration. After prolonged discussions in the Sub-Commission on Freedom of Information and the Press and at the Geneva Conference on Freedom of Information, a text had been adopted by the Conference, by a vote of 29 in favour and 6 against. A proposal such as that which had just been made by the French representative had been presented to the Conference and had been rejected.

The Commission should be extremely wary of making changes in a text that had been arrived at after so much thought. It should feel an obligation to respect views so emphatically expressed by the Conference, especially since the document under preparation would go before the Economic and Social Council and

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finally to the General Assembly itself where the representation would more nearly parallel that of the Conference than did the representation in the Commission.

Referring to certain Chinese amendments, Mr. Wilson pointed out that changing the word "thought" to the word "opinion" in the first line of the Conference text, was merely a logical result of changes that had been made in the previous article. He was also willing to accept as a drafting change the substitution of the words "through all media of expression" for "by any means", in order to clarify a meaning which might have been ambiguous in the original wording. He hoped, however, that the Commission would feel bound not to introduce any new ideas or to exclude any ideas which were already contained in the text.

Mr. CASSIN (France) was convinced by the argument presented by the United Kingdom representative that the Commission should feel morally bound to follow the text submitted by the Conference on the Freedom of Information. He therefore withdrew his proposal and also stated his approval of substituting "through all media of expression" for "by any means".

Mr. HOOD (Australia) agreed with the United Kingdom representative that the Commission should not make any substantive changes in the text submitted. However, he approved the Chinese wording as a necessary and proper drafting change resulting from the substitution of the word "opinion" for the word "thought" in the first line.

Mr. CHANG (China) did not think that the suggestions of the Conference on the Freedom of Information were necessarily binding on the Commission but he agreed that the important ideas in the Conference text should be retained. It seemed redundant, however, to keep the phrase "to hold opinions" in the second line, if freedom of opinion had already been mentioned in the first line.

Mr. MALIK (Lebanon) pointed out that the first clause of the Conference text was a general statement of principle, which was explained in the second clause. If the phrase "to hold opinions" were omitted, then part of the process of enjoying the right stated in the first clause, would be missing. It was not, therefore, redundant to retain the phrase in the second part.

He was prepared to accept the substitution of "through all media of expression" for "by any means".

Mr. LOPEZ (Philippines) observed that freedom to impart information necessarily implied freedom to hold opinions and he therefore supported the Chinese suggestion to omit "to hold opinions" in the second line. He also favoured changing "thought" to "opinion" in the first line and placing the phrase "without interference" before "regardless of frontiers", as the two phrases taken together would make for a more harmonious and logical statement.

Mr. PAVLOV (Union of Soviet Socialist Republics) asked whether the words "freedom of opinion" implied in English, as they did in the Russian translation, both the freedom to hold an opinion and the freedom to convince others of such an opinion. He also wondered whether "regardless of frontiers" referred to geographical or moral frontiers.

In reply to the point raised by the Philippine representative, Mr. Pavlov observed that frequently people did impart opinions which they did not themselves hold, as for example certain newspapermen wrote articles that expressed the opinions of the owners of the papers rather than their personal convictions.

/The CHAIRMAN

The CHAIRMAN explained that in the first line freedom of opinion and expression meant the right to form any opinion and to speak freely about it.

She agreed with the USSR representative that it was possible to impart an opinion which an individual did not himself hold, but she observed that newspapermen who followed such a practice were generally look upon as lacking in integrity.

Mr. CHANG (China) suggested that the representatives of Lebanon, Philippines, the United Kingdom and China should try to prepare for the afternoon meeting a text that would be acceptable to the Commission.

The CHAIRMAN stated that the Chinese suggestion would be followed.

The meeting rose at 1.00 p.m.