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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS

Fourth Session

SUMMARY RECORD OF THE SEVENTY-SIXTH MEETING

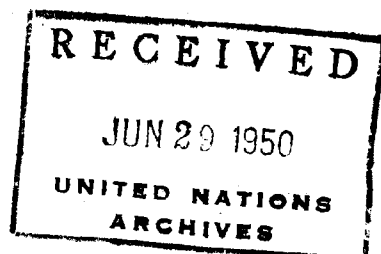
Held at Hotel Parque, Montevideo,  
on Saturday, 20 May 1950, at 10 a.m.

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world and the obstacles to the free flow of information to them  
(E/CN.4/Sub.1/106) (continued):

Draft of an international code of ethics  
(E/CN.4/Sub.1/114) (continued).

<u>Chairman:</u>	Mr. FONTAINA	(Uruguay)
then:	Mr. AZMI	(Egypt)
<u>Rapporteur:</u>	Mr. JORDAN	(United Kingdom of Great Britain and Northern Ireland)



/Members:

<u>Members:</u>	Mr. AQUINO	(Philippines)
	Mr. AZKOUL	(Lebanon)
	Mr. BINDER	(United States of America)
	Mr. P. H. CHANG	(China)
	Mr. DEDIJER	(Yugoslavia)
	Mr. GERAUD	(France)

Representative of a specialized agency:

Mr. FARR	United Nations Educational, Scientific and Cultural Organization (UNESCO)
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Representatives of a non-governmental organization:

<u>Category A:</u>	Mrs. SALMON	World Federation of United Nations Associations (WFUNA)
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<u>Secretariat:</u>	Mr. HUMPHREY	Representative of the Secretary-General
	Mr. HOGAN	Secretary of the Sub-Commission

THE ADEQUACY OF THE NEWS AVAILABLE TO THE PEOPLES OF THE  
WORLD AND THE OBSTACLES TO THE FREE FLOW OF INFORMATION  
TO THEM (E/CN.4/Sub.1/106) (continued)

Draft of an international code of ethics (E/CN.4/Sub.1/114)  
(continued)

1. The CHAIRMAN invited the Sub-Commission to consider the second section of the draft code of ethics, entitled "To use only honest methods in gathering, transmitting and disseminating information."
2. Mr. AZKOUL thought that the opening words of the second paragraph, "Deliberate distortion or suppression of essential facts", could be deleted, as that point was dealt with in the first section. Similarly, he favoured the deletion of the phrase which came later in the same paragraph, "and the promotion of any interest contrary to the public welfare", since the code contained no definition of public welfare and a journalist should be permitted in the interests of truth to publish information which might be held by some to be contrary to public welfare.
3. He noted that in the French text of the first paragraph the words "sur les instances d'un tiers" did not seem to provide an equivalent for the English "acceptance of an inducement".

4. Mr. JORDAN supported the deletion of the opening phrase of the second paragraph. Further, since "slander" in the United Kingdom did not apply to the printed word, he wished to insert the word "libel" immediately after it. The phrase "the dissemination of publicity in the guise of news" was too broadly worded. Under that text newspapers would be prevented, for example, from publishing news of industrial activity with the names of those concerned; yet it was in the general interest that such news should continue to be published. He agreed with Mr. Azhoul that the phrase referring to public welfare should be deleted, since it would be against the policy of the newspapers in his country to prohibit, say, Communist propaganda, in spite of the fact that it was generally held to be contrary to the public welfare.

5. With reference to the last paragraph, he remarked that it was impossible to draw "a clear distinction" between the reporting of facts and the publication of comment or opinion on them. Any typical piece of newspaper reporting would, by its very choice of words, inevitably contain some comment. Since the code should be entirely clear and unambiguous, such an injunction was highly undesirable.

6. Mr. BINDER was in full accord with Mr. Jordan. He also took exception to the words in the second paragraph, "exploitation of a colleague's labour" which, if strictly interpreted, might prevent newspapers from trying to increase their circulation by advertising the achievements of some member of their staff.

7. The word "inducement" in the first paragraph seemed somewhat vague; if "bribe" was meant, "bribe" should be used.

8. Mr. DEDIJER preferred the word "inducement" because it had a wider meaning and could include not only bribery but various other forms of temptation and pressure.

9. Mr. JORDAN suggested that the text might read: "inducement or bribe".

10. Mr. DEDIJER approved of the deletion of the opening words of the second paragraph, and of the phrase "and the promotion of any interest contrary to the public welfare". The latter was a double-edged sword, as had been shown by the recent imprisonment of newspapermen in Greece. He also favoured deletion of the sentence referring to a clear distinction between facts and comment; a newspaperman's personal attitude was always, consciously or unconsciously, reflected in his manner of reporting the facts.

11. He felt that the phrase "exploitation of a colleague's labour" should remain, because it covered such activities as strike-breaking.

12. In the second sentence of the last paragraph, the words "and treated" should be inserted after "identified", to prevent the practice of putting a rumour in the headline and identifying it as such in small type.

13. Mr. AZKOUL was in favour of all the deletions proposed in the second paragraph, since various considerations applying to any number of other professions would be eliminated thereby and only those referring specifically to journalism would remain.

14. With regard to the last paragraph, the intention of the first sentence was simply that the news should be so presented as to enable the reader to distinguish between facts and the conclusions drawn from them.

15. Mr. GERAUD thought that that sentence might be replaced by: "Freedom of comment should be governed by respect for facts."

16. He agreed that the reference to public welfare in the second paragraph was inadvisable; since the real evil was that journalists sometimes defended particular interests which were inimical to public welfare, the phrase might be replaced by: "placing oneself at the service of a private interest".

17. Mr. AZMI observed that "exploitation of a colleague's labour" might apply to such practices as taking the credit for another's work; the phrase should therefore be maintained. He was, on the other hand, in favour of deleting the opening phrase of the second paragraph and the reference to public welfare.

18. Mr. BINDER cited a sentence from the voluntarily adopted by the American Society of Newspaper Editors, which ran: "Freedom from all obligations except that of fidelity to the public interest is vital." That statement was more constructive than the corresponding phrase in the code before the Sub-Commission in that it implied a voluntary dedication to the principle of fidelity to public welfare and left it to each individual journalist's own conscience to decide what was in the public interest and what was contrary to it. The phrase which the Sub-Commission was considering, on the other hand, opened the door to serious restrictions on the part of Governments, and therefore did not serve the true interests of freedom of information and of the Press.

19. Mr. AZKOUL was in favour of deleting the phrase. It might be used to prevent any social progress, since great reforms at their inception were frequently regarded by contemporaries as being contrary to the public welfare.

20. Mr. AZMI agreed that the phrase could be deleted, but thought that the words "and can be limited only by fidelity to the public welfare" might be added to the last sentence of the fourth section, which stated that freedom of information was a vital right of mankind.

Mr. Azmi took the Chair.

21. Mr. AQUINO pointed out that, after considerable debate, the Third Committee of the General Assembly had decided to use, in article 29 of the Universal Declaration of Human Rights, the term "general welfare", rather than "public welfare" or "public interest". As a consequence of that debate, the meaning assigned to the term was consummately clear, and its use in the code would therefore have certain advantages.

22. He was unable to accept Mr. Géraud's alternative suggestion; serving a private interest was not necessarily an offense - in fact, working for any newspaper might be so defined. Moreover, by adopting Mr. Géraud's amendment the Sub-Commission might play into the hands of totalitarian powers.

23. Mr. AZKOUL remarked that, with all due respect to the Declaration, it might have been a more liberal document if it had been drafted by the people rather than by their Governments, whose concern with the principle that the interests of the State were above those of the individual was reflected in article 29.

/24. The members

24. The members of the Sub-Commission were not Government representatives and the code on which they were working was intended for voluntary acceptance by practicing journalists. Since the latter should not be bound by conditions which States set in self-defense, he was in favour of complete deletion of the phrase "and the promotion of any interest contrary to the public welfare", and would oppose Mr. Azmi's addition to the fourth section when the time came.

Mr. Fontaina took the Chair.

25. Mr. AQUINO said, in reply to Mr. Azkoul, that newspapermen, like everyone else, were bound by the obligation to consider the rights and freedoms of others. If they were to be guided by their consciences alone, complete anarchy would result. A journalist had no more right than anyone else to carry on an activity inimical to the constitutional order under which he lived. He therefore urged the Sub-Commission to abide by the concept of freedom as implying respect for the freedom of others, a concept on which the United Nations had been built.

Mr. AZKOUL moved the closure of the debate.

26. By 4 votes to one with 3 abstentions, the Sub-Commission agreed to close debate and proceed to the vote on the second section of the draft code of ethics.

27. In the first paragraph, the addition of the words "or bribe" after "inducement" was approved by 6 votes to none, with 3 abstentions.

28. The deletion of "deliberate distortion or suppression of essential facts" from the second paragraph was approved by 5 votes to none, with 4 abstentions.

29. The insertion of the word "libel" between "calumny" and "slander" in the second paragraph was approved by 5 votes to none, with 3 abstentions.

30. The deletion of "exploitation of a colleague's labour" was approved by 3 votes to 2, with 3 abstentions.

31. Mr. JORDAN indicated that he found it impossible to amend the phrase "the dissemination of publicity in the guise of news" to make it clear that all publicity would not thereby be prohibited. He therefore moved deletion of those words.

32. The deletion proposed by Mr. Jordan was approved by 5 votes to 3, with one abstention.

33. In reply to a question by Mr. GÉRAUD, the CHAIRMAN indicated that a vote in favour of the deletion of the words "the promotion of any interest contrary to the public welfare" would not preclude a vote on Mr. Géraud's amendment to replace that text by "placing oneself at the service of a private interest".

34. The deletion of "the promotion of any interest contrary to the public welfare" was approved by 8 votes to none, with one abstention.

35. Mr. Géraud's amendment was rejected by 4 votes to 4, with one abstention.

36. The third paragraph was adopted as it stood by 6 votes to none, with 2 abstentions.

37. The deletion of the first sentence of the fourth paragraph was approved by 4 votes to 3, with 2 abstentions.

38. The CHAIRMAN stated that in view of the vote for deletion all other amendments to the first sentence fell.

39. Mr. Delijer's amendment adding the words "and treated" after "identified" in the final sentence was approved by 5 votes to one, with 2 abstentions.

40. The fourth paragraph was adopted as amended by 6 votes to none, with 2 abstentions.

41. The CHAIRMAN put to the vote the following amended English text of the second section and indicated that the translations would be made to correspond:

"Personal interest shall not influence professional conduct. Whether for publication or suppression, the acceptance of an inducement or bribe is one of the gravest professional offences.

"Calumny, libel, slander, unfounded accusations and plagiarism are also serious professional offences.

"Any published information which is found to be inaccurate shall be voluntarily and immediately rectified.

"Rumour and unconfirmed news shall be identified and treated as such."

42. The second section was adopted as amended by 5 votes to one, with 2 abstentions.

43. Mr. GERAUD stated that although he had voted in favour of some parts of the text, he had voted against the second section as a whole because he considered it incomplete without the basic and importance reference.

prohibiting journalists from serving private interests.

44. The CHAIRMAN invited the Sub-Commission to consider the third section of the draft code of ethics, entitled: "To have regard for professional dignity, responsibility and discretion".

45. Mr. JORDAN suggested that, in order to achieve uniform wording throughout the draft code of ethics, the opening word "Everyone" should be changed to "All". He noted that the system of accepting only tasks compatible with the integrity and dignity of the profession of journalism would in practice lead to anarchy and starvation. The essence of the contract between employer and employee was the acceptance by the employee of the obligation to perform assigned tasks. The words "and accept" should therefore be deleted.

46. Mr. AZKOUK agreed to the substitution of "all" for "everyone" and further suggested that, for the sake of uniformity, the drafting of the second line should read "dissemination of news and in commenting thereon".

/47. If the

47. If the Sub-Commission voted to delete the word "accept", he would propose that it be replaced by "seek" so that the text would read "assign and seek".

48. Mr. DEDIJER could not agree to the deletion of the word "accept". He felt that a journalist had the right to reject an assignment and to accept the consequences of his action. The code of ethics should promote a sense of personal dignity and pride in standards of work.

49. In reply to a question by Mr. BINDER, Mr. AZKOUL stated that the text referred to professional dignity which was linked to fidelity to facts and refusal to accept assignments contravening the aims and principles set forth in the code of ethics. There was no intention to countenance the refusal of assignments which a journalist regarded as being beneath his dignity.

50. Mr. AZMI confirmed the fact that the text related not to the dignity of the individual but to the dignity of the profession which was unaffected by the nature of the subject dealt with. "Accept" should therefore be maintained since the code of ethics should encourage high standards.

The CHAIRMAN put to the vote Mr. Jordan's proposal to delete "and accept".

51. The proposal for the deletion of "and accept" was rejected by 4 votes to 2, with 3 abstentions.

52. In the absence of objection, it was agreed that "everyone" should be changed to "all".

53. Mr. JORDAN, referring to the second paragraph, stated that in the United Kingdom full legal responsibility inevitably rested with the editor and there was no possible way of disclaiming such responsibility.

54. While he himself was fully in favour of the privilege of professional secrecy discussed in the fourth paragraph, he pointed out that journalists were subject to national laws. In the United Kingdom, for example, the law in certain special circumstances involving criminal prosecutions, did not respect the right of a journalist to withhold his sources of information. However, although the second sentence of the fourth paragraph was contrary to the law of the land, and would therefore have no real validity in the United Kingdom, he would not at all object to its retention in the text.

55. In reply to <sup>a</sup>/query by Mr. CHANG, Mr. JORDAN stated that priests and doctors in the United Kingdom had so far as he knew, the privilege of secrecy and were therefore immune from being forced to disclose information /to the courts.

to the courts. The case of journalists was somewhat different, however, since they were not members of a closed profession.

56. Mr. AZKOUL indicated that the objection raised by Mr. Jordan might be met by the addition of the words "within the framework of the laws of the country" at the end of the second sentence.

57. Mr. AQUINO stated that his country granted the journalist the right to invoke professional secrecy with the sanction of the law, except in case of a national emergency or for reasons of national security. Under other systems, the courts could ask or even demand the disclosure of sources of information and a journalist refusing to comply was liable to imprisonment. Recent investigations showed that newspapermen generally refused to divulge the sources of their information to the courts but later yielded under legal pressure.

58. The provision of paragraph 3 for disclaiming moral and legal responsibility would have disastrous effects and would in practice provide a cloak for the breach of professional ethics. The provision had no legal validity since newspapermen would in any case continue to be responsible before the law.

/59. Mr. BINDER

59. Mr. BINDER explained that, although priests and physicians had immunity and could not be compelled to disclose professional information, their immunity did not extend to the publication of such information.

60. Both in the United States and in the United Kingdom, journalists had maintained commendable standards in refusing to divulge sources of information and in assuming the full consequences of their silence.

61. Mr. HOGAN (Secretary) indicated that document E/CONF.6/10, (page 32) containing extracts from various codes of honour, gave pertinent quotations on professional secrecy which might be helpful to the Sub-Commission.

62. Mr. JORDAN explained that he would not press for the deletion of the second sentence of the second paragraph but noted that in his country that provision would not be operative. The amendment proposed by Mr. Azkoul would seem to facilitate acceptance of the sentence by newspapermen in his country.

63. Mr. AZKOUL proposed the deletion of the words "and legal" from the first line of the second paragraph. He noted that legal responsibility was inevitable whether the journalist accepted it or not. The deletion he suggested would obviate the need for amending the second sentence

of the paragraph since the text would then apply solely to moral responsibility.

64. The text of the third paragraph should be modified to make it clear that privacy applied only to information which would be harmful to the interests of the individual concerned.

65. Mr. DEDIJER stated that, although he was not a jurist, he felt that the deletion of the words "and legal" as proposed by Mr. Azkoul in the second paragraph might be harmful in providing a possible loophole in cases where legal responsibility was not automatic.

66. Mr. AQUINO expressed the view that if "and legal" were deleted, the text would have little practical value. Disclaiming moral responsibility would in no way free the journalist of full legal responsibility for his published material.

67. Mr. AZMI believed that the second paragraph was intended to apply to the publication of free forum material in newspapers. In such cases, the manifold restrictions ordinarily imposed on newspaper material did not apply and the publication of opinions other than those of the owners and editors was made possible, with responsibility clearly disclaimed. He was prepared to delete both "moral and legal" if the text were understood

/to apply

to apply to free forums. In all other cases, full moral and legal responsibility was automatically assumed by newspapers.

The meeting rose at 1 p.m.

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