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<u>Chairman:</u>	Mr. LOPEZ	Philippines
<u>Rapporteur:</u>	Mr. FONTAINA	Uruguay
<u>Members:</u>	Mr. AZKOUL	Lebanon
	Mr. AZMI	Egypt
	Mr. BINDER	United States of America
	Mr. DEDIJER	Yugoslavia
	Mr. GANDHI	India
	Mr. GERAUD	France
	Mr. SILVA CARVALLO	Chile
	Mr. WILLIAMS	United Kingdom
	Mr. ZONOV	Union of Soviet Socialist Republics

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Mr. FARR

United Nations Educational,
Scientific and Cultural
Organization (UNESCO)

Secretariat:

Mr. HOGAN

Secretary of the Sub-Commission

ESTABLISHMENT OF PROCEDURE FOR DEALING WITH COMMUNICATIONS (ITEM 4 OF THE AGENDA) (E/CN.4/Sub.1/80/Rev.1, E/CN.4/Sub.1/87, E/CN.4/Sub.1/88) (discussion continued)

ESTABLISHMENT OF A SECTION OF THE SECRETARIAT TO ASSIST THE SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS (E/CN.4/Sub.1/81/Rev.1)

The CHAIRMAN drew the attention of the Sub-Commission to the proposals submitted by Mr. Fontaina (E/CN.4/Sub.1/88) and Mr. Geraud (E/CN.4/Sub.1/81/Rev.1). As the latter proposal raised a question which went beyond the scope of item 4 of the agenda, he proposed that the Sub-Commission should deal with Mr. Fontaina's draft resolution first.

Mr. FONTAINA explained that his draft resolution took into account the debate which had taken place on item 4 of the agenda the previous day. Thus it mentioned neither protests nor complaints and merely referred to communications. It also took into account the necessity of examining communications in closed session. Lastly, the draft resolution resembled Mr. Geraud's proposal in that it advocated the setting up of a permanent committee to ensure the continuity of the Sub-Commission's work.

He realized that some aspects of his proposal might be inconsistent with the decisions adopted at the previous meeting, while others, on the contrary, were more inclined to complement them.

He felt, however, that the Sub-Commission would be able to amend his draft resolution so as to bring it into harmony with the resolution in document E/CN.4/Sub.1/87.

The CHAIRMAN, for his part, found no inconsistency between paragraphs 1 and 2 of Mr. Fontaina's draft resolution and paragraph (a) of the second part of the resolution in document E/CN.4/Sub.1/87. Indeed, the paragraphs in question both completed and clarified that paragraph.

Paragraph 3 of Mr. Fontaina's draft resolution suggested that a committee should be asked to examine the communications received between sessions, with the right to consider the merits of such communications and to make recommendations to the Sub-Commission thereon. Furthermore, it empowered the committee to consult with the Secretary-General concerning the progress of studies undertaken by him for the assistance of the Sub-Commission.

As there was no serious contradiction between the two texts, he felt that the Sub-Commission should merely decide whether or not it wished to adopt the procedure proposed by Mr. Fontaina.

Mr. BINDER asked Mr. Fontaina to state whether he was suggesting the setting up of a permanent committee and, if so, whether that committee would meet at Lake Success.

In his opinion, it would be more useful to set up an ad hoc committee at each session, to meet at the same time as the Sub-Commission. While he did not object to Mr. Fontaina's proposal in principle, he feared that the establishment of a permanent committee would entail additional expenditure and might thus give rise to considerable difficulties.

Mr. FONTAINA replied that seven members of the Sub-Commission were permanently resident in the United States, so that a committee composed of three of them might easily meet at Lake Success or in New York without entailing any additional expenditure for the United Nations. There was certainly no need for such a committee to sit permanently: it would be sufficient if it were to meet, say, once a month.

Mr. ZONOV agreed with Mr. Binder's remarks and wished to add some comments of his own:

1) Mr. Fontaina had said that certain members of the Sub-Commission were permanently resident in the United States. Mr. Zonov was one of them. As a member of the USSR Embassy staff, however, he had well defined duties to fulfil and he would find it difficult to neglect his regular work to attend sessions of the committee, each of which would undoubtedly last about fifteen days. Other members would, he imagined, be in the same position.

/2) He doubted

2) He doubted the wisdom of giving three members of a Sub-Commission of twelve the authority to sift the communications.

3) He was not sure that the Sub-Commission had the power to set up permanent committees. If that were the case, all the Sub-Commissions could do likewise, which would entail considerable expenditure for the United Nations.

4) Despite the explanations given by Mr. Fontaina, he thought that the financial question was of great importance. The Governments of the countries to which the three members of the committee belonged could scarcely be asked to be responsible for the expenditure entailed by their new duties; the United Nations would therefore have to be asked to provide additional funds.

5) He did not think that the committee could accomplish any useful work, since its duties were defined too vaguely.

6) Finally, he drew attention to a procedural difficulty which arose in connexion with Mr. Fontaina's proposal. The aim of the latter was to amend resolution E/CN.4/Sub.1/87; yet that resolution had already been adopted, so that a two-thirds majority would be required for any amendment to it.

In conclusion, he stated that he was opposed for reasons of principle to the establishment of the committee proposed by Mr. Fontaina.

Regarding resolution E/CN.4/Sub.1/87, he pointed out that on the previous day the Commission on Human Rights had rejected a proposal which provided for the acceptance of communications from individuals. Consequently, the resolution adopted by the Sub-Commission was contradictory to a decision of the Commission on Human Rights. He felt, therefore, that the resolution in question should be revised and he reserved the right to return to the substance of that question at a later meeting.

The CHAIRMAN repeated that, in his opinion, Mr. Fontaina's proposal was not inconsistent with the resolution adopted the previous day but merely completed and clarified that resolution.

With regard to the Sub-Commission's right to set up committees, he referred Mr. Zoncv to rule 19 of the rules of procedure of functional Commissions of the Economic and Social Council, which stated that such Commissions might, in consultation with the Secretary-General, set up

committees authorized to sit between sessions. The work of the Sub-Commission was governed by those rules.

He asked Mr. Hogan to explain the financial side of the question to the Sub-Commission.

Mr. HOGAN (Secretary) said that funds were allocated for each annual session of the Sub-Commission. The Economic and Social Council would have to take a special decision regarding the necessary funds to cover a permanent committee.

So far there had been only one precedent for the creation of such a committee, namely, the committee set up by the Commission on Human Rights to examine communications. That Committee, however, did not sit permanently and only met a few days before the sessions of the Commission. The only additional expenditure, therefore, consisted of the per diem allowance paid to members while the committee was meeting.

Mr. GERAUD asked for his proposal to be discussed at that particular stage of the debate, since it was closely connected with that of Mr. Fontaina. A separate discussion might lead to yet another debate on all the questions which had just been raised.

After reading out his draft proposal, he explained that whether the task of the Sub-Commission were action or research, its duty was to obtain accurate and up-to-date data on the state of information in the world. If the Sub-Commission were to remain in the realm of the abstract, it would have no authority whatever for accomplishing its task.

Furthermore, the Sub-Commission had decided that it would receive communications from Governments, national and international organizations and individual members of professional associations. Those communications had to be co-ordinated and classified, so that at each session the Sub-Commission could deal with fifteen to twenty complete and up-to-date files of cases which concerned questions on its agenda.

If that work were not carried out regularly between the sessions, the Sub-Commission would only have out-of-date information at its disposal and would not be in a position to make concrete recommendations to the Economic and Social Council.

It had been alleged that the Sub-Commission was not competent to initiate measures of the kind he had suggested in his proposal. In his opinion, however, that objection was groundless, for the task he was proposing for the Secretariat was extremely modest and consisted merely in receiving and classifying documentation.

The Chairman of the Sub-Commission could be asked to supervise and direct the work of that section of the Secretariat. That would enable him to remain in constant touch with events affecting freedom of information and to make better preparation for the sessions of the Sub-Commission.

Together with Mr. Fontaina, he had examined the possibility of setting up a committee of three; he had, however, given up that idea because of the difficulties it might entail.

He was not at all sorry ^{that} the Sub-Commission had decided to receive communications from individuals, for such communications represented a valuable source of information. He realized that the Sub-Commission might be called upon to deal with explosive material as a result of that decision, but he felt that the system envisaged in his proposal would enable the Chairman and the Secretariat merely to file communications of that kind.

Mr. WILLIAMS, while not objecting to Mr. Fontaina's proposal in principle, doubted whether it was necessary. In the resolution adopted at its fifty-eighth meeting, the Sub-Commission requested the Secretary-General to distribute monthly to members of the Sub-Commission a list containing a brief summary of each communication received. The Sub-Commission would thus be aware of the subjects of the communications and would be able to decide at the beginning of each session whether they should be examined in private meeting.

He agreed in principle with Mr. Geraud's proposal. There was no denying that a section of the Secretariat whose special function it would be to deal with questions concerning freedom of information and of the Press would be of great value. He doubted, however, whether a special resolution was required to set up such a section. Such a decision was a matter for the Secretary-General and there was no need to mention it.

The CHAIRMAN pointed out that the question was whether the existing staff of the Freedom of Information Section of the Secretariat was adequate to perform the tasks the Sub-Commission had entrusted to the Secretary-General. He quoted paragraph 3 of the resolution adopted by the Economic and Social Council on 24 February 1949, which read as follows:

"The Economic and Social Council...requests the Secretary-General...to take such steps as he deems appropriate to provide the additional staff required to enable the Sub-Commission to implement its programme of work."

It was for the Secretary-General to decide whether or not the existing staff of the Secretariat was adequate.

Mr. HOGAN (Secretary) said that in view of the programme of work recently drawn up by the Sub-Commission, the existing staff of the Freedom of Information Section was clearly insufficient. The necessary funds for the appointment of additional staff in 1950 could be granted only by the Fifth Committee of the General Assembly, which decided on the budget of the United Nations. Up to the end of 1949 the Freedom of Information Section could take on no extra staff unless the Economic and Social Council insisted that the need was urgent; the necessary funds to implement such a decision would then be advanced by the Secretary-General from the Working Capital Fund, with the consent of the Advisory Committee on Administrative and Budgetary Questions. The measure would be submitted for the approval of the Fifth Committee at the following session of the General Assembly.

Mr. FONTAINA recalled Mr. Zonov's remark on the alleged contradiction between the resolution adopted at the fifty-eighth meeting of the Sub-Commission and the resolution adopted on the same day by the Commission on Human Rights dealing with an identical question. While, however, the Commission dealt with general problems concerning human rights, the Sub-Commission concerned itself with the more limited field of the observance of human rights in connexion with freedom of information and of the Press.

The two decisions thus adopted did not therefore appear to be so contradictory.

/Mr. Fontaina

Mr. Fontaina supported Mr. Geraud's proposal. It was in fact necessary for a section of the Secretariat to carry out the work which would enable the Sub-Commission to fulfil the very important task allowed to it.

Mr. BINDER felt that the Secretariat should explain to the Economic and Social Council what it needed most in order to carry out its work efficiently. He supported Mr. Geraud's proposal, and stated that the Sub-Commission should emphasize the necessity for an increase in the personnel of the Freedom of Information Section. He asked Mr. Geraud to explain the meaning of the last words of the operative part of his draft resolution: "...and should, therefore, be re-organized".

Mr. GERAUD amended the text of the operative part of his draft resolution, to read as follows:

"DECIDES,

"To request the Secretary-General to augment as soon as possible the Section on Freedom of Information and of the Press in the Secretariat and to provide it with additional qualified personnel in order that this Section may be in a position to assist the Sub-Commission in the fulfilment of its tasks."

Mr. FONTAINA withdrew his draft resolution.

Mr. AZMI supported Mr. Geraud's draft resolution.

Mr. GANDHI supported Mr. Geraud's draft resolution, which gave the Secretariat definite instructions regarding the work to be carried out. It would also be useful if the Secretariat could send the members of the Sub-Commission a list of communications which it had received each month. The Secretariat should prepare a kind of information bulletin for members of the Sub-Commission, which it could attach to the list.

With regard to the operative part of Mr. Geraud's draft resolution, Mr. Gandhi felt that it would be helpful if the Secretariat submitted its own recommendations regarding the number of staff it would need if the Freedom of Information Section was to carry out its work efficiently.

/Mr. AZMI

Mr. AZMI stated that that question had already been settled. As the Chairman had recalled, the Economic and Social Council in its resolution 197 (VIII) of 24 February 1949, had requested the Secretary-General to take the necessary steps to place at the disposal of the Sub-Commission "the additional staff" indispensable for its work.

Mr. Azmi therefore supported the operative part of Mr. Geraud's draft resolution, as amended by the latter. He favoured Mr. Gandhi's suggestion that the Secretariat should send an information bulletin each month to members of the Sub-Commission.

Mr. AZKOUL stated that, generally speaking, when the Secretary-General had studied the programme of work of a Commission, he himself asked the appropriate organ if he thought that necessary. The Sub-Commission had before it a case of that type. He did not think it necessary, therefore, to adopt a special resolution. If the ^{draft} resolution were such as to prompt the Economic and Social Council to facilitate the work of the Sub-Commission, he would not oppose it; that, however, was not the case. He also pointed out that Mr. Geraud's draft resolution recapitulated once more the work which the resolution adopted by the Sub-Commission at its fifty-eighth meeting ^{had} requested the Secretary-General to carry out. The only new factor was that consultations were proposed between the Chairman of the Sub-Commission and the Secretariat.

Mr. BINDER, replying to Mr. Gandhi, agreed with the idea of a monthly information bulletin.

He stated, moreover, that in practice a superior body did not itself watch over the interests of subordinate bodies. The superior body took it for granted that the affairs of the subordinate body were running smoothly unless the latter drew attention to changes which it felt were necessary. He pointed out to Mr. Azkoul that a request from the Secretariat would not carry the same weight with the superior body as it would if it were supported by the Sub-Commission. The Council would be more inclined to give favourable consideration to a request by the Secretariat if the Sub-Commission supported that request. Thus, Mr. Geraud's proposal was not without value.

/Mr. GANDHI

Mr. GANDHI would not vote against the adoption of the draft resolution if it were true that a resolution has to be adopted in order to enable the Secretariat to take the necessary action.

Mr. HOGAN (Secretary) said that a distinction should be made between decisions which did not call for action by the Council and those which did. If the Council did not approve a resolution of the former category it would issue new instructions; otherwise, it would merely take note of the resolution. With regard to decisions of the second category, they should be submitted in the form of a draft resolution of the Council.

He pointed out that the Secretary-General prepared the budget for the whole year. That budget was first reviewed by a committee of experts and then submitted to the Fifth Committee. If the budget were approved, credits were available only from 1 January. It followed that a special recommendation of the Economic and Social Council was necessary in order that the Secretary-General might draw the necessary sums from the Working Capital Fund when measures had to be taken which were not provided for in the budget.

The preamble of Mr. Geraud's draft resolution advocated a step which the Secretariat could take as part of its normal work. It was not necessary to have a resolution in order to ensure the transmission of a monthly information bulletin to members of the Sub-Commission.

The operative part of the draft resolution, however, envisaged reorganization which could only be carried out if the Economic and Social Council itself adopted a resolution to the same effect. That part of Mr. Geraud's resolution should therefore be submitted in the form of a draft resolution of the Economic and Social Council. The latter could not in any case approve the additional expenditure unless the operative part of the resolution stated that it was urgently necessary.

Mr. AZKOUL felt that the Council, in conformity with its previous decision, would vote the necessary credits at the request of the Secretary-General alone. It was not therefore necessary to adopt a resolution. In any case, the Council could not act upon the draft resolution as it stood unless the Secretary-General stated that under existing conditions he could not carry out the work assigned to him. Mr. Azkoul agreed with Mr. Geraud on the substance of the question, but

felt that the Sub-Commission would not be justified in appealing to the Council since it would seem as if it were unaware of a decision already taken by the Council in that connexion. Why should it ask the Council to make a decision to the same effect a second time?

Mr. GERAUD did not think that his draft resolution duplicated Council resolution 197 (VIII). The latter did not outline so specifically the tasks to be undertaken.

Mr. WILLIAMS stated that he agreed with Mr. Geraud in principle. He would nevertheless support Mr. Azkoul, for it seemed to him that the Sub-Commission would place itself in a difficult position if it asked the Council to reaffirm a resolution which it had already adopted. To ask for additional staff would imply that the Secretary-General had not carried out the work assigned to him, owing to lack of personnel.

Mr. FONTAINE wondered whether the question could not be solved by indicating in the operative part of the resolution that the Sub-Commission was making its request in conformity with Council resolution 197 (VIII).

The CHAIRMAN pointed out that in the original text of paragraph 3 of the Council resolution the word "steps" was preceded by the word "immediate". The word "immediate" had been deleted as the result of a vote, the Council considering that it could not at that time state whether the need for an increased staff would be felt immediately. It followed that the Sub-Commission would be perfectly justified at the existing stage in submitting to the Council a request for additional personnel in the section, if it was convinced that such an increase was both necessary and urgent.

Mr. BINDER recalled that the Chairman had asked members to deal successively with the following two questions: (1) should the personnel of the Sub-Commission be increased forthwith? (2) Should it be increased in 1950? He did not think that it was imperative for the staff to be increased before 1950, as Mr. Geraud seemed to consider. In that connexion, he would like to have some explanation from the Secretariat.

/Mr. GANDHI

Mr. GANDHI warned the Sub-Commission against making any recommendation involving additional expenditure and which might be rejected by the Council for that reason.

Mr. AZKOUL felt that the adoption of Mr. Geraud's draft resolution would give rise to the following question: should not the Secretary-General await a further decision by the Council before proceeding to recruit additional staff, especially as the first resolution of the Council had already authorized him to do so?

The word "immediate" had been deleted in the text of the Council's resolution in order that the Secretary-General should not engage personnel before it was necessary to do so, but from the moment the existing staff found that it could not cope with the work that the Sub-Commission had decided to undertake he was authorized to take on additional staff at once, without any further approval.

In conclusion, Mr. Azkoul asked whether the Secretary-General considered that he was authorized to proceed immediately to recruit additional staff. If the answer was in the affirmative, he would vote against Mr. Geraud's draft resolution; otherwise he would vote for the resolution.

Mr. BINDER wished to know before voting whether the Secretariat, as composed at present, felt that it would be able to assure the services required by the Sub-Commission until April of the following year, that was to say until the next session.

Mr. HOGAN (Secretariat) stated that ever since the Conference on the Freedom of Information the Secretary-General had stated incessantly that he needed additional staff in order to carry out the work entrusted to the Secretariat in that field, and that the personnel should be increased as soon as possible. With the word "immediate" deleted, the resolution adopted by the Economic and Social Council had no practical effect since there were no vacant posts and the Secretary-General was not empowered to engage personnel on his own authority.

In order to make it possible for him to take the necessary preliminary measures in the course of the current year, the Sub-Commission should point out to the Council that steps should be taken immediately.

The meeting rose at 1 p.m.