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Fifth session

SUMMARY RECORD OF THE NINETIETH MEETING

Held at Headquarters, New York,
on Wednesday, 5 March 1952, at 3 p.m.

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E/CN.4/Sub.1/151/Add.1, E/CN.4/Sub.1/160) (continued)

<u>Chairman:</u>	AZMI Bey	(Egypt)
<u>Rapporteur:</u>	Mr. AZKOUL	(Lebanon)
<u>Members:</u>	Mr. BINDER	(United States of America)
	Mr. P.H. CHANG	(China)
	Mr. GERAUD	(France)
	Mr. LOPEZ	(Philippines)
	Mr. MOULIK	(India)
	Mr. PLEIC	(Yugoslavia)

Members (continued):

Mr. SILVA CAVALLO	(Chile)
Mr. WAITTMAN	(United Kingdom of Great Britain and Northern Ireland)
Mr. ZONOV	(Union of Soviet Socialist Republics)

Representative of a specialized agency:

Mr. CARNES	United Nations Educational, Scientific and Cultural Organization (UNESCO)
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Representatives of non-governmental organizations:

<u>Category A:</u>	Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
	Miss KAHN	World Federation of Trade Unions (WFTU)
<u>Category B:</u>	Mr. BEER	International League for the Rights of Man
<u>Secretariat:</u>	Mr. EEK	Secretary of the Sub-Commission

DRAFT INTERNATIONAL CODE OF ETHICS (E/CN.4/Sub.1/151, E/CN.4/Sub.1/151/Add.1, E/CN.4/Sub.1/160) (continued)

The CHAIRMAN, speaking in his personal capacity, paid a tribute to the Secretariat for its lucid analysis of comments and suggestions by information enterprises and professional associations, as set forth in documents E/CN.4/Sub.1/151 and E/CN.4/Sub.1/151/Add.1.

They showed that there were fears in certain quarters, which were based on a lack of understanding of what the Sub-Commission stood for. The fear of undue government influence in the field of freedom of

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information and the press was justified, and he himself shared it; but there was no reason to believe that such influence might be exerted through the Sub-Commission, which was composed not of representatives of governments or even of organizations, but of free and independent experts, each answerable only to his own conscience.

He had maintained an independent attitude all his life, and intended to do so in the future. It was in that spirit that, at the Sub-Commission's third session, he had criticized his own Government's action with regard to foreign correspondents; and that, as recently as last month -- as reported in the Nice newspaper L'Espoir of 29 February 1952 -- he had made the public statement that newspapermen must not submit to any pressure on the part of the authorities or of their own employers. He therefore wished to associate himself with the remarks of Mr. Azkoul and Mr. Lopez at the preceding meeting and to make it quite clear that the Sub-Commission was free not only from government pressure, but even from the atmosphere which prevailed in government circles. Its members expressed only personal opinions, based on their own experience.

Mr. Azkoul and Mr. Lopez had not been altogether just in ascribing an unfavourable attitude towards the code of ethics to both American and British journalists. The truth was that many British organizations (E/CN.4/Sub.1/151, pages 4 to 6) had spoken in favour of the code and had found it acceptable. Mr. Azkoul's and Mr. Lopez's remarks did, unfortunately, apply to journalists in the United States, whose mistrust was a little difficult to understand. A country in which philanthropy was practised on so large a scale, and which had so many foundations engaged in social and cultural work, should have been more ready to welcome the benevolent impulse which had led the United Nations to propose a moral discipline to be freely accepted by a profession which was the traditional guardian of freedom of information. The United Nations had done so with no thought of interference; the actual proposal emanated from a group -- a truth which could not be repeated too often -- of free and independent experts from all parts of the world.

He supported Mr. Moulik's observations on Mr. Zonov's statement. He was himself a firm believer in absolute freedom of expression. Every man had the inalienable right to state his honest opinion, no matter what political
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ideology he happened to profess. A fascist was as much entitled to express his views -- provided that they really were his views -- as a communist. For his part, he found it impossible to place any curbs on the freedom of expression or information; only abuses of that freedom could and should be suppressed. Desirous as he was of promoting peace and good international relations, he could not find it in his conscience to oblige all newspapermen to preach those laudable aims. The right and duty of every journalist was, at all times, to say what he honestly thought.

He hoped that his remarks would help to dissipate the unfounded fears to which he had referred.

Mr. GERAUD recalled that he had consistently expressed doubts about the utility of drafting an international code of ethics for journalists, as proposed by Mr. Azkoul and Azmi Bey. Now that the project had been initiated and had reached its present stage, the Sub-Commission had no alternative but to proceed with the task, and attempt to draft the best possible text.

The code would not serve as a rule of conduct which could be invoked by journalists to settle the manifold problems which beset them. In the final analysis, a code of ethics constituted an appeal to professional conscience. While the development of moral responsibility represented a laudable goal, that goal could be attained only if an inspired and inspiring text could be elaborated. It must, however, be admitted that the Sub-Commission did not at that stage possess such a text.

It had been stated that a code of ethics would serve the practical purpose of protecting journalists against restrictions and interference from government and other authorities. While he himself had always occupied a privileged position of complete independence and freedom from pressure of any kind by his government, he was familiar with the tremendous forces of intimidation and pressure to which most of his fellow-journalists were subject.

To some extent the project of a code was a step in the right direction, particularly at a time when the press was undergoing a difficult period, in which the general trend, even in the countries of the West, seemed to be limitation rather than extension of freedom of information.

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He could not agree that the code would be an important or determining factor in facilitating governmental interference in freedom of information, admittedly a very real and serious danger. Its principal disadvantage was that moral rules without obligations or sanctions were worthless. Even if tribunals of honour were later established, he could have little confidence in the judgments of tribunals composed of members of professional associations with limited participation and experience in journalism. Such tribunals would also encounter the problem of judging whether a journalist had properly verified the information he published. The standards employed in individual cases were subject to tremendous variation. Moreover, the difficulties of a working journalist in checking items of information revealed to him in confidence must be borne in mind.

The essential point seemed to be to foster independence and good faith among journalists, who should look upon themselves as historians of the contemporary scene. While the code did not approach the ideal, the Sub-Commission should go on and should accept no restrictions on amendments to any part of the code.

The CHAIRMAN confirmed that the work of the Sub-Commission in redrafting the code was not confined to the comments submitted by information enterprises and professional associations. The Sub-Commission was entirely free to accept any additional amendments presented by its members.

Miss SENDER (International Confederation of Free Trade Unions) stated that the majority of the organizations which had submitted comments on the draft international code of ethics seemed agreed that it was desirable to have such a code and that the final wording should be prepared by a non-governmental conference of members of the profession concerned rather than by governments. It seemed generally agreed that the code must not be imposed upon journalists.

She drew attention to the comments of the International Federation of Free Journalists, which stressed the need for authorized interpretations of such general ideas as freedom, democracy, justice and human rights. The Sub-Commission should also give careful consideration to the analysis submitted by the Association Suisse des Editeurs de Journaux.

It was significant that article 4 of the code could be put into practice only if all states opened their doors without restriction. She noted that slander and libel were already considered as offences under the penal codes of various countries and therefore need not be covered by the international code.

Article 1 of the code opened the door to interpretations of all kinds. The International Confederation agreed with the proposal to insert the word "wilfully" before the word "distorted" in the third section in order to avoid extraneous interpretations and accusations.

The process of rectification was difficult to conceive in a country with a government-owned and controlled press. In view of USSR insistence on the "national security", agreement seemed unlikely, because the idea of states providing facilities was contrary to the democratic ideal. The arrest and conviction of William Oatis, the Associated Press correspondent, made reconciliation of the East and West conceptions of freedom of information seem increasingly doubtful. In reality, government monopoly of newspapers was more dangerous than chains of newspapers, of which the power and influence were grossly exaggerated for propaganda purposes. So long as newspapers of conflicting views were available to the public, it could not be said that competition was eliminated. Government monopoly of newspapers was inexcusable and intolerable.

The Sub-Commission should exert every effort to elaborate a better text and, if its efforts prove futile, should candidly admit its failure. The task was impossible if a foreign correspondent's search for truth was condemned in advance as espionage.

In the final analysis a code of ethics would not change practices in the contemporary world. It would serve only to arouse criticism of democracies, while allowing the usual secrecy and silence on the pretext of

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resistance to interference in the internal affairs of states. Thus the application of the code would be one-sided and distorted. Moreover, the convening of an international conference would produce exactly the same stalemate as other conferences held in the course of the "cold war".

The CHAIRMAN observed that speakers should bear in mind the difference between the draft convention on freedom of information, which dealt with relations between governments, and the draft international code of ethics, which covered solely the professional conduct of journalists and with which alone the Sub-Commission was concerned. It should also be remembered that the international professional conference could (if it met) reject, modify or accept the draft code prepared by the Sub-Commission.

Mr. WAITEMAN could not agree with Mr. Zonov's statement that the United States press was continually calling for war. As a Washington correspondent, he had to read a great part of that press and could assure Mr. Zonov that for every piece of warmongering there were hundreds of calls for peace.

His own amendment (E/CN.4/Sub.1/L.1) was designed to make the original text more precise. Every journalist, however honest, knew that sometimes pressure of time, lack of corroborative sources, or deliberate distortion by the original source, caused the publication of distorted news. Yet, in such cases, the journalist ought not to be open to the automatic accusation of bad faith. The wilful distortion of fact by the journalist was, however, certainly to be condemned.

He was inclined to share the doubts expressed by the Canadian Association of Broadcasters (E/CN.4/Sub.1/151/Add.1, page 13) with regard to the practical value of promulgating an international code of ethics. A good, honest and experienced journalist hardly required to be told what correct professional conduct should be. The existing dangers to freedom of information, as the body he had cited observed, came rather from governments themselves and from organized minority groups within certain communities. Only when governments allowed access to all the facts could those dangers be averted by the judgment of an instructed reading public.

/Mr. ZONOV

Mr. ZONOV objected to Mr. Binder's allegation at the previous meeting that he had slandered the United States press; he had merely quoted that press. He had never implied that the entire United States press was continuously calling for war; but, unfortunately, he could not agree with Mr. Waitzman that the majority of United States newspapers did not indulge in warmongering. The serious difficulties encountered by the minority which advocated peace had been described in the United States Congress on 22 January 1952 by the Representative from Nevada. He could not possibly agree with the Chairman and with Mr. Moulik that fascism could not be defined; recent history had shown the results of fascism only too clearly. The members of the Sub-Commission were of course sitting as experts, but they were members of a United Nations organ, in which the allies during the Second World War and their enemies could not be equated.

Mr. MOULIK said that Mr. Zonov's argument was precisely what he had hoped to avoid. The Sub-Commission should not be diverted into the discussion of terms not adequately defined; in certain cases a fascist had been defined as anyone who was not a communist. The intention behind Mr. Zonov's proposed new article I (E/CN.4/Sub.1/160) was fully covered in the existing text of the first paragraph of the preamble.

Mr. CHANG said that the Sub-Commission ought to decide at once whether members were to be permitted to reintroduce proposals which had been rejected at previous sessions. Mr. Zonov's amendments (E/CN.4/Sub.1/160) were virtually the same in substance as articles 4 and 5 of the original draft, which had been rejected by majority vote at the fourth session, after exhaustive discussion, on the ground that to compel a journalist to supply guidance rather than fact would impose on him obligations far beyond the bounds of his professional duties. The majority had agreed that the journalist's duty should be confined to reporting and commenting without malicious intent, and had therefore accepted Mr. Gandhi's proposal that a reference to the peace of humanity should be inserted in the first paragraph of the preamble. Mr. Zonov was reopening the whole discussion.

Mr. ZONOV maintained that any member was perfectly free to submit any amendments he wished. Furthermore, he had not introduced similar proposals at the fourth session, for the simple reason that neither he nor his alternate had attended it.

Mr. AZKOUK, Rapporteur, observed that there was nothing in the rules of procedure to prevent any member asking for the reconsideration of a decision taken at a previous session. Furthermore, the Economic and Social Council in resolution 306 E (XI), paragraph (2), had specifically requested the Sub-Commission to re-examine the draft. It was perfectly possible that some of the members of the previous majority might have changed their views. Whether or not the discussion of Mr. Zonov's amendments might be a loss of time, he had a perfect right to submit them.

Mr. LOPEZ sympathized with Mr. Chang's view, but felt that the matter had better be discussed and voted as soon as possible, rather than that the Sub-Commission should become involved in a procedural discussion.

Mr. ZONOV and the CHAIRMAN agreed with the Rapporteur.

Mr. CHANG said that he did not regard the matter as procedural, but as one of principle. He had not implied that Mr. Zonov himself had introduced similar proposals at the fourth session, but that his amendments were similar in substance to proposals already discussed and rejected. He regarded a fresh discussion as waste of time and would personally take no part in it.

Mr. BINDER said that he would not, unless compelled to do so, engage in further controversy with Mr. Zonov on the basic principles about which both they and their respective countries differed so profoundly. Those differences had been sufficiently aired. Mr. Zonov might claim that his views had not been considered at the fourth session, from which he had voluntarily absented himself, but he had expressed virtually the same opinions in virtually the same language at the third session, when he had tried to persuade the Sub-Commission that a journalist should be a propagandist. Mr. Zonov's amendments seemed to contradict the Chairman's statement that the Sub-Commission was not an inter-governmental body; they appeared to represent the views of a government rather than those of a profession. No journalist who was not answerable to a government would have dreamed of making a proposal in such terms. It was to be hoped that Mr. Zonov would remember that he was acting in the Sub-Commission purely as an expert.

Mr. ZONOV observed that he, like Mr. Binder and all the other members of the Sub-Commission, had been appointed on the recommendation of his Government.

Mr. BINDER replied that, when working in the Sub-Commission, he regarded himself as an independent expert.

Mr. MOULIK asked whether it would be in order for any member to propose that, in view of the disagreement about the utility of the code of ethics, a recommendation should be made to abandon the whole matter. It would surely be a waste of time to submit and discuss amendments if the Sub-Commission finally decided that the code was valueless.

Mr. BINDER thought that, unless the Sub-Commission realized the impossibility of reconciling the widely differing views in its midst, it would again end by failing to face the basic problem before it, that of the adequacy of the news available to the peoples of the world and the obstacles to the free flow of information to them. The only tangible result achieved at the previous session had been the resolution on interference with radio signals, which had been adopted by the General Assembly (resolution 424 (V)).

Mr. AZKOUL, Rapporteur, observed that Council resolution 306 E (XI) specifically instructed the Sub-Commission to re-examine the draft code of ethics, so that it must do so even if it thought that the code should be abandoned. Under that resolution, however, the Sub-Commission was perfectly free to recommend that the code should be abandoned. If any member intended to introduce a draft resolution to that effect, it might be better to discuss that before the amendments.

The CHAIRMAN deduced from the text of resolution 306 E (XI) that the Council had not in any way contemplated the abandonment of the code; but the Sub-Commission could certainly make such a recommendation if a majority so desired.

The meeting rose at 5.10 p.m.