

**United Nations**  
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**Nations Unies**  
**CONSEIL**  
**ECONOMIQUE**  
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UNRESTRICTED

E/CN.4/Sub.1/SR 64 69  
15 June 1949

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS  
SUB-COMMISSION ON FREEDOM OF INFORMATION  
AND OF THE PRESS

Third Session

SUMMARY RECORD OF THE SIXTY-FOURTH MEETING

Held at Lake Success, New York,  
on Monday, 13 June 1949, at 11 a.m.

CONTENTS: 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.1/80, E/CN.4/Sub.1/80/Corr.1, E/CN.4/Sub.1/92) (discussion continued)

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

Representative of a specialized agency:

Mr. FARR	United Nations Educational, Scientific and Cultural Organization (UNESCO)
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<u>Secretariat:</u>	Mr. HOGAN	Secretary of the Sub-Commission
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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.1/80, E/CN.4/Sub.1/80/Corr.1, E/CN.4/Sub.1/92) (discussion continued)

The CHAIRMAN recalled that members of the Sub-Commission were requested to read the Rapporteur's provisional draft report and to be prepared to suggest any changes that they considered advisable. If such changes were minor ones concerning typographical corrections or obvious factual errors, they should be pointed out to the Secretary of the Sub-Commission. If they were substantive, they would be considered at the following afternoon's meeting.

There were several gaps in the provisional draft report, which would be filled in when the Sub-Commission had taken the relevant decisions. Provisional decisions concerning some of the points had been taken, but in view of the amount of work accomplished by the Sub-Commission as compared with the work planned, it might be necessary to amend those decisions before the end of the current session.

Mr. AZKOUL said that he had not the detailed journalistic experience of other members of the Sub-Commission, as his experience was spread over a wider range of subjects. He had, however, considerable experience of work in the United Nations, particularly in the field of human rights and freedom of information.

Throughout its work, the Sub-Commission should bear in mind two basic and tragic facts. The first was that, in modern times, the chief source of danger to the full enjoyment of human rights was the State, the very organ which had originally been established to safeguard those rights. Thus, the Sub-Commission's activities should be directed towards influencing States to protect the right to freedom of information. The second factor was that journalists had only themselves to blame for many of the obstacles to the free flow of information. It was because journalists were often not sufficiently conscious of their responsibilities that States refused to grant them all the freedom they desired.

Speaking from his experience in the United Nations, Mr. Azkoul reminded members that, although they had been elected as individual experts, the Sub-Commission itself was nevertheless an organ of the United Nations and was therefore dependent on other organs. Its recommendations would have to go, some through the Commission on Human Rights and others through the Economic and Social Council and the

General Assembly before they could be implemented. He hoped that the Sub-Commission would keep the realities of the situation in mind and would not follow the tendency to indulge in theoretical discussions which could not possibly lead to any concrete action, a tendency which was becoming all too prevalent in United Nations bodies.

With regard to item 6 of the agenda, it had been suggested that the Secretariat should base its study of the adequacy of the news available to the peoples of the world on an inquiry into the obstacles to the free flow of information. He suggested that a more effective method might be to see how some particular item of news was reported in the various countries of the world.

He hoped that, in whatever studies it might undertake, the Secretariat would always give high priority to problems on which some concrete action could be taken. No study, however interesting it might be theoretically, would be of any real value unless it could be translated into action.

It should also be borne in mind that the action the United Nations could take was strictly limited. It could make recommendations or even draft conventions, but it could not in any way intervene in the internal affairs of States. The Sub-Commission should therefore concentrate on the problems which the United Nations could attempt to remedy.

The final consideration which should underlie all the Sub-Commission's work was the fact that the United Nations, by its very nature, was primarily concerned with international problems rather than with those affecting a single country. Mr. Azmi, in his speech at a previous meeting, had emphasized the fact that journalists should have freedom of action in their own countries. Mr. Azkoul agreed that that was eminently desirable, but pointed out that such a problem could not be given priority in the United Nations, since it was an affair of national rather than international concern.

As an example of the type of work on which he felt the Sub-Commission should concentrate, he mentioned the draft resolution he had submitted on the encouragement of national information agencies (E/CN.4/Sub.1/92). It dealt with a practical problem of international scope about which the United Nations was capable of taking some action. It was, moreover, closely linked with the work of the Economic and Social Council on programmes of technical assistance for under-developed countries. Information services were in fact mentioned as an integral part of the development programme.

A further point in favour of his draft resolution was that it dealt with the implementation of some of the recommendations adopted by the United Nations Conference on Freedom of Information, a subject which had been specifically included in the Sub-Commission's terms of reference. The draft resolution was intended to meet one of the most important problems that had become apparent during the preparation of the Draft Convention on the International Transmission of News and the Right of Correction. The under-developed countries were required by the Convention to grant certain privileges to foreign correspondents but, because they did not possess information agencies of their own, they could not themselves benefit by the provisions of the Convention. In order to meet that point, a clause had been inserted stating that nothing in the Convention would be construed as preventing a Contracting State from taking measures to help the establishment and development of independent domestic information agencies. In Mr. Azkoul's opinion that clause was an extremely dangerous one, as it might well be used as a pretext for the contravention of any of the provisions of the Convention. The adoption of his draft resolution would promote the development of national information agencies and would thus help to make that dangerous clause in the Convention superfluous.

In conclusion, Mr. Azkoul emphasized that the Secretariat, in making the studies requested of it, should always give priority to practical questions of international scope about which the United Nations could take some positive action. Only by bearing those factors in mind would the Sub-Commission be able to accomplish some really effective work.

Mr. SILVA CARVALLO indicated that two criteria for judging the main issue before the Sub-Commission had emerged in the course of the discussion. The two criteria belonged to two different schools of thought on the nature of the press, the aim of the Sub-Commission and the steps which should be taken to achieve that aim. The first criterion which fortunately was accepted almost unanimously by the members of the Sub-Commission corresponded to the democratic concept of life, of the organization and function of the State and of the role of the press. The other criterion was based on a totalitarian conception of the organization of the State which inevitably invaded the field of freedom of the press and influenced theories regarding the object and the functions and purposes of the press. Clear understanding of the profound difference between the two concepts would help in the achievement of the aims set forth in the terms of reference of the Sub-Commission. Any other course would

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not only give rise to useless debate and attempts at fruitless compromise between irreconcilable criteria but would also contribute nothing to help the millions of human beings who, in the twentieth century, were deprived of means of expression and were totally ignorant of events in the world around them.

The totalitarian and democratic conceptions of the constitution of the State resulted in widely divergent views on freedom of expression, a right on which was based the existence of the press as such. In modern times the totalitarian State was characterized by a single party which wielded absolute power, by the extermination of minorities and by the fact that the individual had no rights except those which the State granted to him. The system of control of all media of expression by the State or its official organs reduced the press to a function of the State and reduced journalists and other intellectuals to the role of public servants subject in their thought and action to the all-powerful will of their rulers. It was not political, economic or social ideology which determined the totalitarian nature of a State but rather its constitutional organization which aimed to afford the rulers supreme power and to deny to citizens who did not favour the official ideology the right to express their opinion through the press, radio or any other medium. Any philosophical, political or economic doctrine could be arbitrarily imposed by a totalitarian regime based on communism, fascism or nazism. The totalitarian State in modern times was the legitimate and faithful successor of ancient absolute regimes against which humanity had successively revolted.

Mr. Silva Carvalho stated that democratic countries had a different conception of the State and of the rights of citizens and therefore of the expression of thought through the press or any other communication media. The democratic State was representative in nature and political minorities had the same rights as the majorities. Officials could be publicly criticized by citizens and, contrary to the situation in totalitarian regimes political acts, involved responsibility but not reprisals. The State could own or have an interest in any organ of the press or in any radio station but such ownership did not exclude ownership by individuals or private corporations. In any case, the State remained subject to public legislation and was on an equal legal footing before the courts. Journalists and intellectuals were not public officials and exclusive, and constant interpretation of the ideas of public officials was considered a denial of professional independence.

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In the opinion of Mr. Silva Carvalho, the aims of the Sub-Commission could be achieved only on the basis of the democratic concept of the press as a free instrument of expression which could develop and correct the defects of the State. On the contrary, none of the items on the Sub-Commission's programme of work was applicable to the press of totalitarian countries. It would be an illusion to imagine that a totalitarian press would change its nature and cease being an organ and function of the State in order to become the voice of public opinion.

The primary function of the Sub-Commission was to study conditions in those countries in which the press as a source of information and mirror of public opinion had ceased to exist. Before determining if news throughout the world was adequate it was logical to see to it that the news reached those countries and that some information on what took place within the borders of those countries was available. The Sub-Commission must recommend the adoption of the required measures to ensure that those countries could receive and dispatch information and enter into contact with other nations of the world.

It would not be difficult for the Sub-Commission to assemble the constitutional and legal provisions in force throughout the world. It was, however, most important for the Sub-Commission to be familiar with the practices of Governments in connexion with the rights guaranteed in their constitutions regarding freedom of the press in order to determine whether those practices safeguarded or violated that freedom.

Mr. Silva Carvalho agreed that news could be classified as true or false but felt that it was impossible to oppose the free dissemination of news and to prevent journalists from getting the facts merely by invoking the need for truth. The distinction between true and false involved discrimination and could not be turned over to a group of men and least of all to a Government. The establishment of censorship did not achieve dissemination of the truth. The truth could be spread by increasing the moral responsibility of the journalist, improving his knowledge and raising professional standards. Censorship as a pretext for preventing falsehood was obviously a purely political manoeuvre advocated only by regimes which were afraid of comparison with other countries or which could not face objective analysis.

/Mr. Silva Carvalho

Mr. Silva Carvalho recalled that a proposal had been made for investigation of monopolies in periodicals and news agencies as harmful influences on public opinion. It should, however, be pointed out that the ownership of almost all newspapers in the world was a matter of public record and that in the field of journalism a monopoly existed only if one person or group of persons had the exclusive right to publish newspapers and distribute information. That danger did not arise when media of communication belonged to different people or groups which represented the most opposing ideologies and interests. That situation produced diversity rather than uniformity. The most influential and dangerous monopolies were state monopolies, because in addition to the exclusive control of the press, such monopolies were backed by the power of the Government, the weight of political justice and the threat of secret police. The monopoly of public information by the State gave the State unchallenged power to control what the people should know and think, to impose the official version of the facts as the only truth and to cut off other sources of information.

Mr. Silva Carvalho indicated that Chile, a country with democratic laws and democratic traditions, had a free, democratic press. The organization of a newspaper required only registration with the appropriate agency. Chile had no censorship prior to or following publication and the constitution provided for censorship only in case of war or similar public emergencies. Chile, with a population of slightly over five million, had more than three hundred publications of various kinds. The laws encouraged publications by granting customs exemption <sup>there were</sup> and special currency arrangements for newsprint and other material. There was intense political and critical expression of views and the acts of the Government and the conduct of officials were severely judged.

As early as 1833, Chile had adopted a law requiring public servants who were attacked in the press for their official acts to reply to the charges made in the press within a very short period. Since 1925 the right of reply had been authorized so that any person or corporation which felt that its reputation had been unjustly attacked had the right to have a reply published in the same form, in the same type and in the same position in the newspaper as the original attack. Accordingly, for twenty-four years Chile had had an institution which had just been approved in principle in the draft international Convention prepared by the Conference on Freedom of Information.

/Mr. Silva Carvalho

Mr. Silva Carvalho noted that Chilean newspapers normally published a substantial amount of foreign news and in many cases had special correspondents in the important countries of the world. Those facts proved interest and concern regarding world affairs. Nevertheless, he called attention to the fact that the foreign press, particularly in the United States of America, published very little information about Chile or the other countries of Latin America. The obvious injustice of the situation should be remedied in order to achieve better understanding among nations.

The fundamental function of the Sub-Commission was to investigate all types of obstacles which restricted, interfered with or violated the free dissemination of news and the access of journalists to sources of information. The fate of those countries which no longer enjoyed freedom of the press was particularly important, especially since many of those countries had formerly achieved a high degree of journalistic and cultural progress. Those countries were now living in tragic silence. If, as the totalitarian rulers claimed, blissful people lived behind the curtain of silence, the democratic world would like to know the situation.

Mr. Silva Carvalho therefore proposed the following resolution (E/CN.4/Sub.1/96):

"THE SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS,

"CONSIDERING that its first and most important task is to determine what obstacles stand in the path of free access to and transmission, interchange and publication of information throughout the world,

"RECOMMENDS to the Economic and Social Council that the Secretary-General be requested to prepare, to the extent possible, studies which will indicate conditions throughout the world in this respect in order that the Sub-Commission may be able to make recommendations with a view to removing such obstacles."

The CHAIRMAN suggested that the Sub-Commission, at its two following meetings, should consider: (1) the programme of documentation relating to item 6 which it wished the Secretariat to prepare; (2) the concrete proposals which had been submitted or would be submitted concerning item 6; and (3) the programme of studies which the Secretariat and UNESCO were to prepare in connexion with the other items of the agenda and terms of reference. He referred, in particular, to item 7 on the classification and analysis of agreements



in the field of freedom of information, and item 8 on constitutional provisions, national legislation and administrative practices affecting free dissemination of news. If the Sub-Commission considered that there would be sufficient time for further studies, it might also include in the programme items 9 and 10.

Mr. AZMI wished to explain to Mr. Azkoul and other colleagues who had apparently misunderstood some of the comments on the Egyptian press which he had made at an earlier meeting that he had not intended to criticize the Egyptian press. He had been describing national obstacles to freedom of information, and had chosen the Egyptian press as an example because he knew the situation in that country better than that in other countries. The Egyptian Constitution recognized freedom of the press, and ignored censorship except during periods of war or emergency.

He considered it imperative to know the obstacles within a country which hampered free flow of information. There could not be international freedom of information if there were, within the various countries, domestic obstacles to free dissemination of news. The Sub-Commission must be aware of such obstacles before it could make concrete recommendations to promote freedom of information.

He also hoped that the Sub-Commission would be able to take up all the remaining items on its agenda before the end of its current session. He recalled that Mr. Williams' plan of work included items 10, 11 and 12; Mr. Zohov's, item 9; and Mr. Binder's, items 7 and 8.

Mr. AZKOUL pointed out that the Sub-Commission must also decide on the number of sessions it should hold annually, and must examine and approve the Rapporteur's report.

The CHAIRMAN explained that the schedule of discussions which he had suggested concerned only the two following meetings. He had intended to devote the last meeting to consideration of the Rapporteur's report.

The meeting rose at 1 p.m.

