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SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS

Fourth Session

SUMMARY RECORD OF THE SEVENTY-SEVENTH MEETING

Held at Hotel Parque, Montevideo,
on Monday, 22 May 1950, at 10 a.m.

CONTENTS:

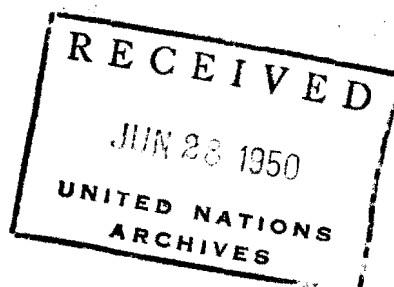
The adequacy of the news available to the peoples of the world and
the obstacles to the free flow of information to them

(E/CN.4/Sub.1/106, E/CN.4/Sub.1/114; E/CN.4/Sub.1/121,
E/CN.4/Sub.1/122)

Draft of an international code of ethics (continued)

Chairman: Mr. FONTAINA

(Uruguay)



/Members:

Members: Mr. AQUINO (Philippines)
Mr. AZKOUL (Lebanon)
Mr. AZMI (Egypt)
Mr. BINDER (United States of America)
Mr. P. H. CHANG (China)
Mr. DEDIJER (Yugoslavia)
Mr. GANDHI (India)
Mr. GERAUD (France)
Mr. SILVA CARVALLO (Chile)

Representative of a specialized agency:

Mr. FARR United Nations Educational,
Scientific and Cultural
Organization (UNESCO)

Representative of a non-governmental organization in

Category A:

Mrs. SALMON World Federation of
United Nations Associations
(WFUNA)

Secretariat:

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, E/CN.4/Sub.1/114, E/CN.4/Sub.1/121, E/CN.4/Sub.1/122)

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

Third Section (continued)

1. The CHAIRMAN recalled that at the preceding meeting Mr. Jordan had proposed the deletion of the words "and legal" from the first sentence of the second paragraph of the third section. It had later been proposed that the word "moral" should also be deleted. Accordingly he invited the Sub-Commission to proceed to the vote on the first sentence, as follows:

"Full responsibility shall be assumed for all information and comments published."

The first sentence of the second paragraph was approved in that form by 5 votes to one.

The second sentence of the second paragraph was approved without change.

2. Mr. AZKOUL indicated that the first sentence of the third paragraph was not very well phrased. While the

publication of information on the private life of individuals should be prohibited if such information was likely to harm their reputation, that did not justify the conclusion that public curiosity was an evil in itself and that it would be a breach of professional ethics to satisfy it.

3. Mr. AQUINO stated that the distinction between public interest and public curiosity was completely justified. For example, it was perfectly legitimate to reveal details of the private life of a public servant likely to prejudice his reputation if the purpose was to show that he was unfit for his office. The code should, however, formally prohibit the publication of such information based only on a desire for sensationalism and, contrary to the ethics of journalism.

He himself would prefer to have the text remain unchanged.

4. Mr. AZKOUL pointed out that if the details which were published served better to acquaint the public with those of their contemporaries whose actions or talents made them outstanding, such a course was perfectly legitimate. The essential point was to avoid having the publication of those details harm the individuals concerned. He

/therefore

therefore formally proposed the following amendment to the first sentence of the third paragraph: "The reputation of individuals shall be respected and news regarding their private lives which is likely to harm their reputation shall not be published unless it is in the public interest..."

5. The CHAIRMAN put to the vote Mr. Azkoul's proposal.

That proposal was approved by 6 votes to none with 2 abstentions.

The second sentence of the third paragraph was approved without change.

The first sentence of the fourth paragraph was approved without change.

6. The CHAIRMAN recalled that Mr. Jordan had requested the deletion of the second sentence of the fourth paragraph. He had later agreed to its retention on condition that the limitation suggested by Mr. Azkoul be added as follows: "taking the law of the country into account".

7. Speaking in his personal capacity, the Chairman expressed the view that none of the provisions of the code could be considered as lying outside the province of national legislation. Mr. Jordan himself had opposed the inclusion of a similar reservation in the

/preceding section:

preceding section; the same arguments applied in the case of the present section.

8. Obviously professional secrecy could be invoked only to the extent to which it was recognized under the law of various countries. The inclusion of a special reservation to that effect in the third section might give the erroneous impression that the reservation did not apply to the other provisions of the code.

9. Mr. AZKOUL stated that the reservation was justified in that particular case because a number of countries had laws limiting the right of professional secrecy in certain circumstances. Care must be taken to avoid giving journalists the impression that the code authorized them to claim the privilege of professional secrecy in violation of the law.

10. Mr. AZMI did not think there need be any fear of creating any such impression since, according to the text, the journalist "may" invoke the privilege of professional secrecy but was not obligated to do so. The text therefore did not set forth an obligation but recorded one of the basic rules of professional ethics. Mr. Azmi objected to the inclusion of any reservation on the additional grounds that it should be made clear that journalists considered professional secrecy a primary duty

and looked upon any restraint placed upon it as incompatible with conception of professional ethics.

11. Mr. GERAUD concurred in the views expressed by Mr. Azmi. In his opinion the original text should be retained to reaffirm, at least implicitly, the legitimacy of the privilege of professional secrecy. Any journalist worthy of the name was duty bound to resist the law if he felt that his honour was at stake. The code must encourage that legitimate attitude.

12. Mr. AZKOUL pointed out to Mr. Azmi that the text contained the words: "may always" which might be interpreted to mean "had the right in all circumstances". Much more than a simple case of discretion was involved. In certain justifiable circumstances, when required by national interest for example, the journalist could perhaps be required not to respect professional secrecy. He emphasized that in general laws were based on realistic and practical considerations which could not be ignored even in the drafting of a code of ethics.

13. The purpose of the reservation was not to encourage journalists to fail to observe professional secrecy in countries which placed limitations on it, but merely to bow to the provisions of the law

when considerations of a higher order entered.

14. The CHAIRMAN put to the vote Mr. Azkoul's proposal to insert the words "taking the law of the country into account" at the end of the second sentence of the fourth paragraph.

That proposal was adopted by 4 votes to one, with 2 abstentions.

15. Mr. AZKOUL pointed out that as a result of the adoption of the reservation regarding national legislation, the first sentence of the fourth paragraph had become too weak. It should be clearly stated that the journalist was under the obligation to respect professional secrecy and that he could not legitimately escape that obligation except when required by higher interests under the laws of his country. He therefore proposed the following amendment to the first sentence: "Professional secrecy shall be respected and may always be invoked, taking into account the laws of the country". Such a formula would satisfy those members who had voted against the inclusion of the reservation which he had proposed in the fear that it might weaken the concept of professional secrecy.

16. He also pointed out that the word "discretion" in the first sentence of the fourth paragraph was qualified in the French text but not in the English text.

17. Mr. AQUINO expressed the view that any qualification was superfluous.

18. Mr. GERAUD commented that the French word "discretion" implied the possibility of a choice; it was therefore weak when it stood alone and required qualification. He would, however, prefer not to have it used because of its vagueness.

19. Mr. AQUINO objected to any modification of the English text which merely repeated an expression used in most of the existing codes of ethics presented in document E/CONF.6/10. In his opinion the English was the authentic text.

20. Mr. DEDJER noted that both English and French were working languages and that the English text could not be considered the only authentic one.

21. The CHAIRMAN pointed out that the comment of Mr. Aquino was justified in the present case in view of the fact that the draft code submitted to the Sub-Commission had been prepared in English and that the French text was actually only a translation.

22. Mr. AZKOUL urged that the need for the journalist to respect professional secrecy should be brought out more strongly in the text.

23. The CHAIRMAN noted that the Sub-Commission had already adopted the first sentence. Therefore only purely formal amendments relating to the translation of the original text were in order. He invited Mr. Azkoul to re-submit his proposal during the second reading.

24. Mr. AZMI suggested the following formula for the French text in order to adhere more closely to the English:

"La discrétion doit être observée à l'égard des sources d'information et des renseignements communiqués confidentiellement".

It was so decided.

25. The CHAIRMAN put to the vote the text of the third section as a whole.

The third section was adopted by 7 votes to none, with 2 abstentions.

Fourth section

26. Mr. BINDER stated that the fourth section was the least acceptable part of the entire code. Actually, the primary function of the journalist was to report facts as they were rather than as they ought to be. Journalism based on that principle enabled the public to realize the true state of affairs and did not seek to mislead it.

/That was the

That was the concept which guided the majority of American journalists and none of them, no matter how great his love of peace and his desire to promote friendly relations among nations, would accept the obligations of the fourth section.

27. Mr. GERAUD expressed agreement with Mr. Binder's views. He felt that the entire section should be rejected because, instead of ensuring freedom of information, it imposed the duty of disseminating propaganda. It was to be hoped that freedom of information might produce results similar to the objectives set forth in that section, but journalists should not be given instructions which in fact limited that freedom.

28. The CHAIRMAN commented that the objections raised to that section provided further proof that it had been a mistake not to establish a distinction between news and comments. He himself would have been in favour of the section if it related only to commentators, because on Mr. Binder's premise that reporters should relate facts objectively, it might be held that commentators should direct their professional activities towards the peaceful settlement of disputes or the dissemination of ideas in

favour of peace and social progress. In the circumstances, he would have to vote against the section.

29. Mr. AZKOUL also opposed the retention of the fourth section in its present form for the reasons given by Mr. Binder and Mr. Geraud. Nevertheless, it must be recognized that at the current stage of technical achievement, the press and the other media of information were among the greatest forces which might work in favour of either war or peace; journalists were actually more powerful than governments since they influenced public opinion while governments could act only with the support of public opinion. The ideals presented in the fourth section were ideals which the entire world was anxious to defend. That purpose could be achieved by retaining the fourth section of the draft code with the sole reservation that journalists, in fulfilling their functions as indicated, should always remain faithful to the truth. With that reservation, he considered the article as completely acceptable.

30. Nevertheless, if that was not the opinion of the Sub-Commission, the valid ideas contained in that section could still be inserted in the preamble, which had not yet been discussed.

31. Mr. GERAUD also thought that the principles appearing in the fourth section should be set forth in the preamble rather than in the body of the code.

32. Mr. AZMI, supported by Mr. DEDIJER and Mr. AQUINO, proposed that the Sub-Commission should consider the fifth section before making a decision in the matter.

33. Mr. AZKOUL and Mr. SILVA CARVALLO pointed out that the fifth section would give rise to the same objections of principle as the fourth section. They would prefer to proceed immediately to the consideration of the preamble.

34. The CHAIRMAN called for a vote on Mr. Azmi's proposal to proceed to consider the fifth section.

That proposal was adopted by 4 votes to one, with 4 abstentions.

35. Mr. AZMI suggested that the words "and in commenting thereon" should be added after "in the gathering, transmission and dissemination of information".

36. Mr. DEDIJER said that the distinction which some members wished to draw between news as such and comment on them did not exist in practice, but only in their own theory. At the preceding meeting he had voted for the deletion of the first sentence of the fourth paragraph of the second section because in his opinion the distinction referred to was purely artificial.

37. The Sub-Commission should be under no illusion: the very manner of presenting the news in an article which appeared to contain no comment would inevitably leave the reader with a certain impression, which depended directly on the view which either the reporter or his newspaper held on the facts reported.

38. There was no such thing as completely neutral news; every statement of fact contained an admixture of propaganda. In those circumstances, since Member States of the United Nations were bound by the provisions of the Charter even as mankind in general was bound by those of the Universal Declaration of Human Rights, it was unthinkable that journalists should not be held to certain generally accepted principles.

39. The code of ethics must lay down principles which applied to all journalists, both those who reported the facts and those who commented on them; the artificial distinction

/proposed by

proposed by some members should not be maintained, lest it should enable any journalist to endanger human rights or to engage in insidious propaganda against the peace.

40. He therefore considered the fifth section to be perfectly justified and was in favour of retaining it in the code.

41. Mr. GERAUD felt that the fifth section merely developed the concepts stated in the fourth. It should therefore be deleted, although the ideas it contained might be placed in the preamble.

42. Mr. BINDER remarked that while some social systems accepted the principle of guiding public opinion, there were others which would reject any code of ethics based on such a notion.

43. He was anxious as anyone to see peace, justice, freedom and security for all, but he had always thought it unworthy of a newspaperman to turn the news into propaganda for those ideals. The public must be given accurate facts; and the adoption of the fifth section would permit a totalitarian regime to influence the presentation of those facts.

44. He therefore hoped that both the fourth and the fifth section would be deleted.

/45. The CHAIRMAN

45. The CHAIRMAN agreed with Mr. Dedijer that it was impossible to draw a clear distinction between news and comment, but added that, from a realistic point of view, it was essential to make sure that the news released to the public was true.

46. The Sub-Commission's task in that connexion was to lay down the principles which should govern an activity that was of great importance in the modern world.

47. Mr. AZKOUL proposed the insertion of the words "based on the truth" after the words "gathering, transmission and dissemination of information" in the fourth and fifth sections; that would, in his view, obviate the dangers referred to by Mr. Binder.

48. Mr. AZMI again proposed that the Sub-Commission should consider the preamble before voting on the fourth and fifth sections.

49. Mr. GERAUD supported that proposal. When the publication of a piece of news was prohibited, journalists often reported it indirectly in their comments. He therefore considered it impossible to separate news as such from comment.

50. Mr. AZKOUL said that the ideas presented in the preamble would not be binding, whereas the body of the code was. He would therefore prefer to maintain the fourth and fifth sections with his amendment.

51. Mr. BINDER was unable to accept those two sections, even with Mr. Azkoul's amendment.

52. Mr. AQUINO remarked that most members were in favour either of deleting the two sections or of transferring to the preamble the principles laid down in them. He requested that the matter should be put to the vote.

53. The CHAIRMAN put to the vote the deletion of the fourth and fifth sections.

It was decided, by 5 votes to 3, with one abstention, to delete the fourth and fifth sections.

54. Mr. DEDIJER explained that he had voted against the deletion of those two sections because in his opinion the proposal for deletion had been based on an erroneous conception of what a code of ethics should be. In his view, it should take into account the exigencies of the international situation, and should help to strengthen peace and to ensure the respect of human rights.

Additional section proposed by Mr. Chang (E/CN.4/Sub.1/121)

55. Mr. AZMI thought that while the underlying principle of Mr. Chang's text was unexceptionable, it did not belong in the code since it was entirely concerned with the professional training of journalists.

56. Mr. AZKOUL supported Mr. Chang's proposal in principle; it contained a worthwhile idea which should be included in the code. He recalled that his country had suffered a great deal at the hands of certain foreign correspondents lacking in honesty and integrity. The intention of Mr. Chang's proposal was that journalists should make an effort to understand the countries they visited; that was vital for small countries which did not have the means of refuting the falsehoods and tendentious propaganda of which they were often the victim.

57. In order, however, to express that simple idea in general terms more in keeping with the other provisions of the code, he suggested that the text following on the words "shall make the utmost endeavour to acquire" might be replaced by "background knowledge conducive to accurate and objective reporting and comment concerning other countries."

58. Mr. BINDER remarked that newspapers in his country generally chose foreign correspondents who either had broad background knowledge or were capable of rapidly acquiring it. Thorough knowledge of the language of the country in which the news was to be gathered was not a prime requisite; what was required from a foreign correspondent was a swift understanding of the events he observed.

59. He had, however, no grounds of principle for opposing Mr. Chang's proposal.

60. Mr. DEDIJER pointed out that all his knowledge would not necessarily prevent a journalist from presenting the facts in a biased manner. While he would not oppose the proposal, he did not expect it to have any effect.

61. Mr. GERAUD said that Mr. Chang's proposal introduced a new idea that journalists should have professional training. That idea might be retained in the code, provided that it was re-stated in very general terms.

62. Mr. Azkoul's amendment to Mr. Chang's proposal was approved by 5 votes to none, with 2 abstentions.

63. The CHAIRMAN put to the vote Mr. Chang's proposal as amended, specifying that its heading as well as the place in which it would appear would be determined at the second reading.

/64. Mr. Chang's proposal,

64. Mr. Chang's proposal, as amended, was adopted by 5 to none, with 3 abstentions.

65. Mr. AQUINO, together with Mr. Silva Carvallo, presented a proposal (E/CN.4/Sub.1/112) to the effect that a distinction should be drawn between news and comments thereon or interpretations thereof. He requested the Sub-Commission to consider only the substance of that text and to decide later at what point it might be inserted.

66. The CHAIRMAN stated that at that stage of the debate the proposal was out of order.

67. Mr. SILVA CARVALLO accepted the Chairman's decision from the procedural point of view, but pointed out that it was absolutely essential to draw a distinction between news and comments. News was an accurate presentation of the facts, whatever their character. He fully understood Mr. Geraud's position; it was natural for a commentator to introduce some news into his comments; that was a perfectly acceptable form of mixed journalism. The reverse, however, did not hold true, and he therefore felt that the Sub-Commission must lay down the basic principle that there was a difference between news and comment.

68. Mr. AZMI failed to see the aim of Mr. Aquino's and Mr. Silva Carvallo's proposal.

/In his view,

In his view, it was impossible to make a complete separation between comment and news; such external factors as the wording of the title of a news article, the size of type used in the title, the place assigned to the article in the newspaper, the use of exclamation points and question marks, and the addition of the phrase "No comment" were highly indicative of the reporter's or editor's opinion of the news in question and might therefore influence the reader even before he had read the comments on that piece of news in a separate article.

69. Mr. AQUINO said that his and Mr. Silva Carvalho's proposal was of the same kind as Mr. Chang's and could therefore also be given immediate consideration.

70. The CHAIRMAN pointed out that their proposal sought to re-introduce a text which had already been rejected by the Sub-Commission; it could therefore be considered only at the second reading.

71. Mr. DEDIJER observed that there had been no formal decision in favour of a second reading. Even if it were to take place, he wondered whether members should have the right to propose the re-introduction into the draft code of texts rejected during the first reading.

72. Mr. HUMPHREY (Representative of the Secretary-General) said that there was nothing in the rules of procedure relating to the reconsideration of the same text at a second reading. It was therefore for the Sub-Commission itself to decide whether it wished to have a second reading of the draft code and if so, what procedure it should follow.

73. The CHAIRMAN ruled that, in that case, the Sub-Commission would proceed to deal with the preamble and would determine later whether, and under what conditions, a second reading should take place.

74. Mr. AQUINO accepted the Chairman's ruling.

75. Mr. DEDIJER reserved the right to present at the second reading a proposal of the same kind as Mr. Aquino's and Mr. Silva Carvalho's.

The meeting rose at 1.10 p.m.
