

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

Third Session

SUMMARY RECORD OF THE SIXTH MEETING

Held at Lake Success, New York,
on Friday, 3 June 1949, at 2.30 p.m.

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<u>Chairman:</u>	Mr. LOPEZ	Philippines
<u>Rapporteur:</u>	Mr. FONTAINA	Uruguay
<u>Members:</u>	Mr. H. AZKOL	Lebanon
	Mr. M. AZMI	Egypt
	Mr. J. BINDER	United States of America
	Mr. P.C. CHANG	China
	Mr. S. DEDIJER	Yugoslavia
	Mr. D. GANDHI	India
	Mr. A. GERAUD	France
	Mr. F. WILLIAMS	United Kingdom
	Mr. V. M. ZONOV	Union of Soviet Socialist Republics

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Representative of a specialized agency:

Mr. W. FARR

United Nations Educational,
Scientific and Cultural
Organization (UNESCO)

Consultant from a non-governmental organization:

Category B:

Miss A. ZIZZAMIA

International Association of
Catholic Women's Leagues

Secretariat:

Mr. C. HCGAN

Secretary of the Sub-Commission

ADOPTION OF THE AGENDA (E/CN.4/Sub.1/75)(continued)

Item 3

The CHAIRMAN stated that the Sub-Commission would consider item 3 of the draft agenda submitted by Mr. Azmi: "Consideration of means by which the Sub-Commission may regularly be kept informed regarding the application of the resolutions of the United Nations Conference on Freedom of Information" (E/CN.4/Sub.1/75).

Mr. ZONOV recalled that on the previous day he had proposed that item 3 of the agenda submitted by Mr. Azmi should be deleted, since the resolutions adopted by the United Nations Conference on Freedom of Information to which reference was made had not yet been the subject of a final decision. Moreover, the Sub-Commission had not been instructed to observe the application of those resolutions.

The CHAIRMAN pointed out that there was in fact no specific reference to that task in the operative part of the Economic and Social Council resolution, but only in the first paragraph of its preamble (E/CN.4/Sub.1/68/Rev.1, page 1).

He asked the Sub-Commission to vote on the question of retaining item 3 on the agenda.

It was decided by 5 votes to 4, with one abstention,
to retain item 3 on the agenda.

/Mr. DEDIJER

Mr. DEDIJER explained that he had voted against the retention of item 3 on the agenda because he thought its inclusion was premature, since the resolutions in question had not been approved by the Economic and Social Council.

Mr. WILLIAMS pointed out that the Sub-Commission was drawing up its programme of work for three years; when the time came for that item to be considered, the Sub-Commission would be free to defer it to a more suitable date.

The CHAIRMAN explained that in voting for the retention of item 3, the Sub-Commission had taken a decision which in no way prejudiced its right to postpone consideration to a later session.

Item 4

The CHAIRMAN invited the Sub-Commission to consider item 4. He recalled the decision that had been taken to amalgamate items 4 and 5 of Mr. Azmi's agenda (E/CN.4/Sub.1/75) into one single item.

Mr. ZONOV wanted to know what kind of communications was envisaged.

Mr. AZMI explained that the only purpose of that item was to establish the principles which should govern the handling of ^{the} communications received. How would the Sub-Commission organize the reception of such communications and how would it arrange their distribution? Was it going to do as Mr. Geraud wished and establish a permanent body within the Secretariat to be responsible for documentation and to publish a bulletin, should the need arise? That was the sole purpose of item 4.

Mr. AZKOUL supported that point of view.

Mr. BINDER said that it was with the same idea in mind that he would have liked item 4 to concern the organization of the consideration of the communications received. He proposed that the words "if any" should be added at the end of item 4. He pointed out, furthermore, that he had submitted a draft resolution regarding communications received by the Sub-Commission (E/CN.4/Sub.1/76), in the hope that it would facilitate the Sub-Commission's work. He noted that the item dealt with a mere question of procedure and in no way involved any question of principle.

Mr. FONTAINE thought that some misunderstanding had arisen. It mattered little whether the Sub-Commission had received communications or not, but it was of prime importance that it should establish machinery which would enable it to proceed to the consideration of such communications when the time came. For that reason Mr. Binder's last amendment seemed to him superfluous.

Mr. ZONOV thought that the use of the word "handling" in the text might lead to ambiguity. He would therefore prefer the organization of the consideration of communications received to be the only matter referred to.

A short discussion followed, in which Mr. CHANG, Mr. AZKOUL, Mr. LOPEZ, Mr. BINDER and Mr. DEDIJER took part, on the exact interpretation of the word "handling", translated by "suite à donner" in the French text. By the close of the discussion, it seemed clearly established that the term would apply in the case in point to the receipt, analysis and forwarding of communications.

In order to remove any ambiguity, Mr. WILLIAMS proposed the adoption of the formula "Establishment of procedure to deal with communications".

The CHAIRMAN put that formula to the vote.

The formula was adopted by 10 votes to none, with 1 abstention.

Item 5

The CHAIRMAN recalled that Mr. Azmi had expressed the intention of proposing item 1 of the revised text of his draft agenda (E/CN.4/Sub.1/75/Rev.1) as item 5: "Establishment of procedure for close liaison between the Sub-Commission and UNESCO".

Mr. AZKOUL supported that proposal and stressed the fact that during the earlier discussions on the advisability of establishing close liaison with UNESCO, no objection of principle had been raised; the only question had been what place the item was to have on the agenda.

/The CHAIRMAN

The CHAIRMAN put item 5 to the vote.

I Item 5 was adopted by 6 votes to none, with 5 abstentions.

The CHAIRMAN announced that the Sub-Commission had adopted all the procedural items; he invited the members to begin consideration of the second part of the agenda.

Supplementary item proposed by Mr. Geraud

The CHAIRMAN recalled that Mr. Geraud had proposed the insertion, as the first item of the second part, of an item to be worded: "Functions of the Sub-Commission".

Mr. AZKOUL pointed out that the proposal had already given rise to a long theoretical discussion, although there was in fact no substantive difference between the views expressed by Mr. Binder and those of Mr. Geraud. Their opinions only differed in the varying degree of importance they attached to the functions of the Sub-Commission. He therefore appealed to Mr. Geraud to withdraw his proposal.

Mr. GERAUD thought that the Sub-Commission's fundamental duty was to take part in the work of international co-operation in the field of freedom of information. Its task, in particular, was to see that the conventions regarding freedom of information were applied, and not to make a series of more or less abstract studies on the questions included in its terms of reference.

To explain what he had in mind, he pointed out that, where barriers to the free flow of information were concerned, for example, the question was not so much one of studying those barriers as of determining what measures could be enacted at the international level for their removal. The application of the conventions on freedom of information would constitute a first step towards that international co-operation which must be organized. In his opinion, the Sub-Commission could help to achieve that by organizing a permanent body, however small, within the Secretariat, to collect documentation, to study all the questions submitted to it and above all to observe the progress achieved in applying the conventions. If it did not choose that path, the Sub-Commission would lose itself in general questions although it had a well-defined task to accomplish.

/In answer

In answer to a question from Mr. ZONOV, Mr. Geraud asserted that that task was the one assigned to the Sub-Commission by the Economic and Social Council in its resolution of 24 February 1949. It was obvious that the difficulties which had arisen came from the fact that the conventions on freedom of information had not yet been put into force and that was why it was regrettable, in one sense, that the Sub-Commission had been convened so soon. Since it was meeting, however, it must apply itself to the task before it and organize its future programme so that, when the time came, it would be able to complete its work as rapidly and efficiently as possible.

Mr. WILLIAMS said that he did not grasp the exact meaning of Mr. Geraud's proposal. The latter was not proposing that item 9 should be put in as item 6, which would have been understandable, but rather that a new item 6 should be inserted, which would consist of defining the functions of the Sub-Commission, although they were already clearly described in its terms of reference.

Mr. GERAUD replied that the study of legal barriers, for example, could hardly be called a function; it could only be regarded as the object of a function.

Mr. BINDER associated himself with the views expressed by Mr. Williams.

The CHAIRMAN put to the vote Mr. Geraud's proposal to insert a new item 6 to be entitled "Functions of the Sub-Commission".

The proposal was rejected by 7 votes to 3, with 1 abstention.

Item 6

Mr. ZONOV proposed that item 11 should become item 6 of the agenda. In his opinion, before entering into technical questions like those which were the subject of the other items of the draft agenda, it should first be established what kind of information there should be and the struggle against fascism, nazism and propaganda of war and hatred should be organized.

/Mr. BINDER

Mr. BINDER thought that the order proposed by Mr. Azmi was more logical. It was better to begin by studying existing barriers and the possibility of removing them and then to formulate the principles on which overall respect for freedom of information would be based.

Mr. AZKOUL shared Mr. Binder's point of view.

With regard to item 6 of document E/CN.4/Sub.1/75, he would have preferred the use of the word "obstacles" rather than "barriers". The word "obstacle" had a wider meaning, since the obstacles to the free flow of information might well be cultural and social; he therefore proposed that the words "and other" should be added after the word "political," to broaden the scope of that item.

Lastly, he suggested that items 6 and 7 of Mr. Azmi's draft should be amalgamated, since they were interdependent.

Mr. FONTAINE thought it would be logical to put item 7 before item 6, since^a study of the adequacy of information would establish what were the obstacles to the flow of information.

Mr. BINDER shared that point of view and recalled that in his first proposals (E/CN.4/Sub.1/73) he had suggested the same order as that which Mr. Fontaine was proposing.

Mr. WILLIAMS, taking into account the various suggestions put forward, proposed that item 6 of document E/CN.4/Sub.1/75 should be worded as follows: "The adequacy of the news available to the peoples of the world and the obstacles to the free flow of information to them".

The CHAIRMAN put to the vote Mr. Zonov's proposal that item 11 should become item 6 of the agenda.

The proposal was rejected by 7 votes to 2.

The CHAIRMAN then put item 6 to the vote in the wording proposed by Mr. Williams.

Item 6 was adopted by 9 votes to none.

Item 7

The CHAIRMAN noted that as a result of the decision just taken to combine items 6 and 7 of document E/CN.4/Sub.1/75, the next item to be adopted would become item 7 of the agenda.

He put item 8 of the document E/CN.4/Sub.1/75 to the vote as item 7, worded as follows: "Classification and analysis of existing agreements in the field of freedom of information".

Item 7 was adopted by 9 votes to none.

Item 8

Mr. BINDER proposed that the Sub-Commission should insert item 12 of document E/CN.4/Sub.1/75 as item 8. There was, in fact, a close connexion between that text and the article 7 the Commission had just adopted, since both dealt with practical questions. He would, however, like the text to be amended to bring it closer to the wording of his original proposals (E/CN.4/Sub.1/73).

After an exchange of views, the text was worded as follows: "Study of constitutional provisions, national legislation and administrative practices affecting the free dissemination of news."

Mr. FONTAINA favoured Mr. Binder's suggestion. He pointed out, furthermore, that item 9 of document E/CN.4/Sub.1/75 dealt with conventions which were still non-existent; while that item should be retained, it should not be given high priority but should be placed at the end of the list.

Mr. AZMI, in reply to a remark by Mr. DEDIJER, asked the Chairman to bear in mind that he had suggested the previous day that item 11 of document E/CN.4/Sub.1/75 should become item 8.

Mr. DEDIJER and Mr. ZONOV thought that that proposal should have priority over Mr. Binder's.

The CHAIRMAN pointed out that Mr. Azmi had not been insistent upon his proposal when the Sub-Commission had adopted document E/CN.4/Sub.1/75 as a basis for discussion: it should therefore be regarded as a fresh proposal, submitted after Mr. Binder's.

/He called

He called upon the Sub-Commission to state its views first on Mr. Binder's proposal to adopt the new text of item 12 as item 8 of the agenda.

Item 8 was adopted by 5 votes to 2, with 3 abstentions.

Decision on items 9 and 10 of document E/CN.4/Sub.1/75

The CHAIRMAN invited the Sub-Commission to take a decision on item 9 of document E/CN.4/Sub.1/75.

Mr. ZONOV, supported by Mr. DEDIJER, proposed that items 9 and 10 should be deleted, since they concerned conventions which had not yet been adopted.

Mr. AZKOUL and Mr. LOPEZ said that they would prefer to retain those items, giving them a lower place on the agenda, as Mr. Fontaina had suggested. The programme of work would extend over a period of three years and the Sub-Commission would naturally not deal with the question of conventions until it was in a position to do so.

The CHAIRMAN put Mr. Zonov's proposal to delete items 9 and 10 to the vote.

The proposal was rejected by 8 votes to 2.

The CHAIRMAN asked the Sub-Commission whether it would like to postpone a decision on the final place those two items were to have on its agenda.

It was decided, by 9 votes to none, to postpone the decision.

Item 9

The CHAIRMAN called upon the Commission to decide whether item 11 of document E/CN.4/Sub.1/75 should become item 9. Its text was the following:

"Promotion of the dissemination of true information to counteract nazi, fascist and other propaganda of aggression or of racial, national and religious discrimination."

Mr. BINDER proposed that the text should be amended to read "...to counteract nazi, fascist, totalitarian..."

Mr. WILLIAMS suggested that item 15 of document E/CN.4/Sub.1/75 should become item 9, since it was logical to place legal questions after the item 8 which had been adopted.

Mr. ZONOV said that if the word "totalitarian", as suggested by Mr. Binder, were added to that text, it would be redundant, since "totalitarian" meant nazi or fascist.

Nor did he agree with Mr. Williams' proposal. There was no special reason to change the position of item 15, whereas the former item 11 should be placed as high as possible on the agenda in view of the paramount importance of the struggle against nazi and fascist propaganda.

Mr. FONTAINA said that any propaganda in favour of aggression or discrimination should be counteracted as a general principle. Any reference to nazi, fascist or totalitarian propaganda should, therefore, be omitted. Any epithet which might be used would be of a temporary significance only and would reduce the force of that item of the agenda. As an example he mentioned German imperialism, which had been a factor of aggression before nazism.

Mr. AZKOUL was also of the opinion that all adjectives should be deleted, since the point at issue was to counteract propaganda of aggression and discrimination, irrespective of its source.

He was not a partisan of either nazism or fascism, but it was no longer from those quarters that the chief danger came. The words "all propaganda" would be better than the list which appeared in the existing text.

Mr. AZMI entirely agreed with Mr. Azkoul.

Mr. BINDER accepted the proposal to delete all the adjectives before the word "propaganda" and merely to state: "...counteract propaganda of aggression or...discrimination".

/Mr. ZONOV

Mr. ZONOV was surprised that the experts who made up the Sub-Commission could take up the argument that nazism and fascism were nothing more than vague, outworn notions. If the experts did not know the meaning of the words "nazism" and "fascism", they should ask the Poles, for example, or even the workers in Coventry. As for the idea that nazism and fascism were dead, a glance at the existing Spanish regime was enough to show that that was not so. Even in Germany, nazism was far from dead.

Mr. BINDER would not pass over in silence any doubts of the anti-nazi, anti-fascist and, in general, anti-totalitarian feelings which he had professed possibly for many more years than any of the experts present.

Mr. DEDIJER asked for a vote to be taken by roll-call.

Mr. GERAUD agreed that it was impossible to claim that either nazism or fascism were dead.

Mr. WILLIAMS insisted that the evil to be counteracted was totalitarianism, whether it was called nazism, fascism, or anything else. The danger of nazism and fascism had by no means disappeared. Those movements had invested war propaganda with a force and character which German imperialism had never had.

He therefore supported Mr. Binder's proposal.

Mr. CHANG thought that a Sub-Commission composed of experts and not of representatives should not engage in political discussions. If the powers of aggression were to be discussed, there were plenty of cases which could be considered, including Japanese imperialism.

Mr. GANDHI agreed with Mr. Zonov in condemning nazism and fascism. No useful purpose would be served by the addition of the adjective "totalitarian" to the original text. It would merely restrict its meaning. Totalitarianism could not always be termed aggressive in the same sense as nazism and fascism.

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Mr. AZKOUL said that the concern of the small countries, on behalf of which he would like to speak, was to counteract propaganda of aggression, irrespective of its origin even were it to emanate from a democracy.

He wondered whether, if the idea of enumerating all the powers of aggression were to be adopted, mention would be made only of regimes which were either dead or not represented in the United Nations.

Mr. FONTAINA pointed out that the Sub-Commission was discussing a working document and not the drafting of a declaration. Nobody had defended nazism or fascism. If an enumeration was to be made, Japanese imperialism and Spanish falangism should certainly not be overlooked.

Mr. ZONOV was not convinced by any of the arguments put forward: he asked that a roll-call vote should be taken on the original text.

Mr. WILLIAMS urged that the three adjectives, nazi, fascist and totalitarian, should appear in the text, to make it quite clear that the regimes to which they applied were condemned even if they had not yet reached the stage of aggression.

Mr. GERAUD said that nazism sprang from Pan-Germanism. Certain British Ministers had at various times made the mistake, for which their country had paid dearly, of failing to realize that Germany was an aggressive Power.

Mr. CHANG maintained that a general condemnation of propaganda of aggression and discrimination would cover all the different cases.

The CHAIRMAN said that there was nothing new in mentioning nazi and fascist propaganda. He quoted precedents, in particular, paragraph 3 (d) (2) of resolution 39 of the Final Act of the United Nations Conference on Freedom of Information. The agenda item under discussion was an exact reproduction of that paragraph.

Mr. FONTAINA explained that he had merely wished to say that nazism and fascism had already been defeated, thanks to the victory of the Allies, and that the important thing was to destroy nazi and fascist ideas by United Nations action.

/The CHAIRMAN

The CHAIRMAN announced that a vote would be taken by roll-call on the deletion of the words "nazi or fascist" used in the former item 11 in conjunction with the word "propaganda".

In favour: Mr. Azkoul, Mr. Azmi, Mr. Binder, Mr. Chang,
Mr. Fontaina.

Against: Mr. Dedijs, Mr. Gandhi, Mr. Geraud, Mr. Lopez,
Mr. Williams, Mr. Zonov.

The proposal to delete the words "nazi and fascist" was rejected by 6 votes to 5.

Mr. ZONOV asked for a clear explanation of the word "totalitarian".

Mr. BINDER said that the word "totalitarianism" had a general meaning which included in particular nazism, fascism, and imperialism, such as German and Japanese imperialism.

Mr. AZKOUL repeated that the Sub-Commission must not embark on an argument on adjectives; what mattered was the nature of propaganda, in favour of aggression or discrimination.

Mr. DEDIJS thought that the Chairman's remark should be borne in mind and that it would be well to retain the form of words which appeared in a text that had already been adopted.

Mr. ZONOV said that it was impossible in a programme of work to use words whose meaning had not been clearly defined. Mr. Binder himself had been unable to give a precise definition of the word "totalitarian" which he had wished to introduce into the text.

Mr. CHANG thought that it would be useless to draw up an agenda if only texts which had already ^{been} adopted were to be used. Furthermore, it would seem that most of the members of the Sub-Commission knew perfectly well the meaning of the word "totalitarian".

Mr. AZMI would not agree to the addition of the word "totalitarian", as it anticipated aggression on the part of a totalitarian regime other than the nazi or fascist regimes which had, in effect, committed that crime.

There was no use denying the fact that the situation had changed and that there did actually exist two opposing blocs: the Western bloc and the Eastern bloc, which was totalitarian. The use of the word "totalitarian" in the text would suggest that the Eastern bloc was being accused of aggressive designs.

The insertion of the word "totalitarian" was not adopted, 4 votes being cast in favour and 4 against, with 3 abstentions.

The CHAIRMAN asked the Sub-Commission to vote on Mr. Williams' proposal that item 15 of document E/CN.4/Sub.1/75 should become item 9 of the agenda.

The proposal was not adopted, 4 votes being cast in favour and 4 against, with one abstention.

Mr. AZKOUL suggested that the end of item 11 (E/CN.4/Sub.1/75) should be redrafted as follows: "racial, national, religious or other discrimination".

Mr. AZMI accepted Mr. Azkoul's proposal.

The CHAIRMAN put to the vote the adoption of item 11, as amended by Mr. Azkoul, as item 9.

The text of item 11, as amended, was adopted as item 9 by 8 votes to none, with 3 abstentions.

The meeting rose at 6 p.m.