

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/Sub.1/SR.99
24 March 1952
ENGLISH
ORIGINAL: FRENCH

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

Fifth Session

SUMMARY RECORD OF THE NINETY-NINTH MEETING

Held at Headquarters, New York

on Wednesday, 12 March 1952, at 11 a.m.

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E/CN.4/Sub.1/151/Add.1, E/CN.4/Sub.1/L.10) (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)
	Mr. POLLERI CARRIO	(Uruguay)
	Mr. SILVA CARVALLO	(Chile)
	Mr. ZONOV	(Union of Soviet Socialist Republics)

Representative of a specialized agency:

Mr. CARNES

United Nations Educational, Scientific
and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

Category A:

Mr. LEARY

International Confederation of Free
Trade Unions (ICFTU)

Category B:

Mr. JACOBY

World Jewish Congress

Secretariat:

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/L.10) (continued)

Article III

The CHAIRMAN called on the Sub-Commission to take up the study of article III of the draft international code of ethics. He recalled that the article consisted of four paragraphs, to each of which various amendments had been submitted. He read out paragraph 1, to which two draft amendments had been tabled, one by Mr. Binder, requesting the deletion of the second sentence, the other by Mr. Geraud, proposing that the entire paragraph should be redrafted.

Mr. AZKOUL wished first of all to point out that there were important discrepancies between the English and the French texts of the original draft. In the first place, the words "and dignity", which appeared in the first sentence after the word "integrity" in the English text, were repeated in the second sentence, whereas, in the French text, the word "dignite" was missing from the second sentence. The gaps in the French text should therefore be filled. Secondly, the phrase "and they shall guard against exploitation of their status" in the second sentence of the English text had no equivalent in the French text. That omission in the French text seemed inexplicable to him.

Mr. ZONOV asked Mr. Binder to remind him why he wanted the second sentence of paragraph 1 to be deleted.

/Mr. BINDER

Mr. BINDER felt that the matter of protecting press personnel against employers or the State was out of place in the code. He pointed out that the question of the independence of press personnel was dealt with in document E/CN.4/Sub.1/154, paragraphs 36 to 41 of which referred specifically to the pressure which might be exercised on that personnel. He also quoted the opinion expressed on the matter by the Institute of Journalists which likewise thought that the sentence should be deleted (E/CN.4/Sub.1/191, page 37).

In his opinion, the important idea was the idea of good faith which the Sub-Commission had included in Article II on his suggestion and, as a general principle, it seemed to him preferable to give the rules set forth in the code a positive construction.

Mr. PLEIC wondered whether the amendment put forward by Mr. Geraud would not meet Mr. Binder's objection and whether it would not be advisable to study that amendment forthwith.

Mr. BINDER sincerely hoped that his own proposal would be put to the vote, because Mr. Geraud's amendment included the expression "taches compatibles avec.....la dignite de la profession" which might be misinterpreted in English. Was it not possible, for example, to conclude that the various facts were insufficiently important to be dealt with by certain journalists?

Mr. GERAUD explained that, in his draft amendment to paragraph 1, he had wanted to substitute a new text for the original wording which seemed to him unsatisfactory. The words "maintain full public confidence in the integrity" showed the result and not the objective which press personnel should set themselves, namely to be, above all, upright and honest. Again, in his second sentence he had wanted to introduce an idea which should, in his opinion, be included in the code. A distinction should be made between two aspect. Of a newspaper, the editorial and business aspects, which could not be separated, and the Sub-Commission could not ignore the fact that the rules under consideration ought to apply also to the business aspect.

/Mr. MOULIK

Mr. MOULIK felt that the second sentence of paragraph 1, in the original draft text, had two drawbacks: on the one hand it was vague, because it was difficult to distinguish between what was compatible and what was incompatible with the dignity of the profession while, on the other, it was liable to impose restrictions on the journalist's activity. He supported Mr. Binder's proposal to delete that sentence.

Mr. AZKOUL thought that the two draft amendments were contradictory. Mr. Binder wanted the Sub-Commission merely to retain a vague sentence which actually laid no obligation upon information personnel, whereas Mr. Geraud wanted to be realistic and precise by specifying that the rules must also apply to those who finally had to select information personnel, in other words to those^{on} whom the quality of that personnel in fact depended. He shared Mr. Geraud's view on the matter.

Mr. PLEIC asked for a vote on the last sentence of Mr. Geraud's amendment irrespective of the voting procedure adopted.

Mr. LOPEZ was in favour of deleting the entire paragraph which, in his view, was vague and introduced no new element. He recalled that the Sub-Commission had already referred to the sense of responsibility in the preamble, that it had also stated, in article I, that care should be taken that information should be factually accurate and objective, and, finally, that it had spoken, in article II, of fidelity to the public interest. The paragraph in question therefore seemed to him to be completely useless, which was also the opinion expressed by the Commonwealth Press Union (E/CN.4/Sub.1/151, page 25).

Mr. CHANG said that he would vote against paragraph 1 for the same reasons as Mr. Lopez. He pointed out that he had deleted that paragraph from his own amendment.

Mr. GERAUD, in reply to Mr. Lopez, did not think that the words "integrity and dignity of the profession" and the expressions used in the previous articles were redundant. On the contrary, he felt that those words summed up the previous ideas and should be added to the summary definition already adopted.

/After

After a short procedural discussion on the order in which the amendments should be put to the vote, Mr. LOPEZ proposed that Mr. Géraud's draft amendment, which was completely different from the original text should be put to the vote first, for were it adopted the original text would automatically be set aside without any voting on its amendment being necessary. On the contrary, the Sub-Commission would have to take a decision only on the original text and the amendment to that text.

The CHAIRMAN accepted Mr. Lopez's proposal.

Mr. AZKOUL pointed out that the formula at the beginning of the first sentence of Mr. Géraud's text would of course have to be brought into line with the formula already adopted.

The CHAIRMAN put to the vote the first sentence of paragraph 1 of article III proposed by Mr. Géraud.

The first sentence of paragraph 1 proposed by Mr. Géraud was adopted by 5 votes to 4, with 2 abstentions.

The CHAIRMAN put to the vote the second sentence of paragraph 1 proposed by Mr. Géraud.

The second sentence of paragraph 1 proposed by Mr. Géraud was adopted by 5 votes to 4, with 2 abstentions.

The CHAIRMAN noted that the original text of paragraph 1 had thus been set aside and asked the Sub-committee to examine paragraph 2. There had been three draft amendments to paragraph 2, from Mr. Binder (E/CN.4/Sub.1/L.6), Mr. Chang (E/CN.4/Sub.1/L.8) and Mr. Géraud (E/CN.4/Sub.1/L.9).

/Mr. GERAUD

Mr. GERAUD thought that there was no point in giving journalists the right in certain cases to disclaim responsibility for information and comments which they published. As the Institute of Journalists of the United Kingdom had pointed out in its reply, the responsibility subsisted despite everything, and the law designated those who must assume it. In France, for example, the chief editor or managing director of the newspaper was responsible before the law for its contents. The Sub-Commission must therefore introduce into the paragraph a sentence which recognized the existence of that legal responsibility.

Mr. BINDER said that the second sentence of paragraph 2 should be deleted. It would be better to retain only the first sentence which was complete in itself and set forth the only principle in the matter which was universally accepted. In the United States, journalists were held responsible for all articles which they published and they could not in any circumstances disclaim responsibility. In any event, the concept of legal responsibility was out of place in a professional code of ethics.

Mr. AZKOUL pointed out that the first part of Mr. Géraud's amendment up to the words "explicitly disclaimed" merely recapitulated in another form the ideas expressed in the Montevideo draft. Mr. Géraud then introduced a restriction: "... if there is doubt regarding the authenticity of the information concerned". That was obviously going too far. A journalist might very well have other reasons for disclaiming responsibility for the information or comments which he published. The last part of the first sentence of the amendment brought in for the first time the notion of legal responsibility, which might introduce a basic ambiguity into the text of the code, particularly into the preamble, and open the door to abusive interpretation. In his opinion, the last sentence of Mr. Géraud's amendment, which seemed to have no real importance, should also be rejected.

Contrary to Mr. Binder, he was in favor of retaining the second part of the paragraph. Journalists had a moral right, where necessary, to disclaim responsibility for their articles, even if they were forbidden to do so by their country's legislation. The principle should therefore be affirmed in the code of ethics and the legal aspect of the question left aside entirely.

/Mr. GERAUD

Mr. GERAUD said that the text of the original draft was not sufficiently explicit and that was why he had thought it necessary to expand the ideas contained in it. He agreed with Mr. Azkoul that it would be better to add the words "or for any other reason" at the end of the first part of his amendment. He also defended himself for having tried to raise the question of legal responsibility. He had merely wanted to point out that even if a journalist could in certain cases disclaim moral responsibility for a text which he had published, he did not, however, enjoy complete immunity. At a given moment, another notion might come into play, that of responsibility before the law.

Lastly, he regretted that the paragraph did not mention the "right of anonymity." It was desirable that a newspaper should be able to publish unsigned articles, if only to give persons in office an opportunity of informing and enlightening public opinion without revealing their identity.

The CHAIRMAN put Mr. Binder's draft amendment to the vote (E/CN.4/Sub.1/L.6).

Mr. Binder's amendment was rejected by 5 votes to 3, with 3 abstentions.

The CHAIRMAN then put to the vote Mr. Chang's draft amendment (E/CN.4/Sub.1/L.8) which replaced the words "in advance" in the last line of the paragraph by "at the time of publication".

Mr. Chang's amendment was adopted by 6 votes to 1, with 4 abstentions.

The CHAIRMAN said that he would vote against Mr. Géraud's draft amendment (E/CN.4/Sub.1/L.9) for the reasons which Mr. Azkoul had put forward. The proposal in effect introduced into paragraph 2 a number of notions which he did not think in place in a code of ethics for workers in the press and information services.

Mr. Géraud's amendment was rejected by 7 votes to 1, with 3 abstentions.

/The CHAIRMAN

The CHAIRMAN then put to the vote paragraph 2 of the Montevideo draft as amended by Mr. Chang.

Paragraph 2 was adopted by 8 votes to 1, with 2 abstentions.

The CHAIRMAN called upon the Sub-Committee to examine paragraph 3. There had been four draft amendments to the paragraph, proposed by Mr. Binder (E/CN.4/Sub.1/L.6), Mr. Chang (E/CN.4/Sub.1/L.8), Mr. Géraud (E/CN.4/Sub.1/L.9) and Mr. Moulik (E/CN.4/Sub.1/L.5).

Mr. BINDER explained that the wording which he proposed reproduced word for word part of the code of ethics of the American Society of Newspaper Editors. That code which had been drawn up by experienced journalists had been in use for nearly thirty years and had thus proved its value. His text also took into account the wishes expressed by the Institute of Journalists of the United Kingdom and by the Association Suisse des Editeurs de Journaux. He suggested that it might perhaps be preferable to replace the expression "L'équité exige" in the third line of the French text by "en bonne pratique, il faut".

Mr. MOULIK said that at least his amendment had the merit of being concise. Mr. Binder and Mr. Géraud, on the other hand, were gratuitously introducing several new ideas. The Indian Journalists Association thought that the Code should contain express provisions to protect private individuals against slander.

Mr. CHANG pointed out that his amendment was even simpler than Mr. Moulik's. Furthermore, it had the advantage of leaving out the question of the right of correction which was already mentioned in Article I.

Mr. GERAUD thought that the question of correction should also be mentioned in that paragraph. By that means any mention of the right of reply, which it might be somewhat dangerous to recognize expressly, could be avoided.

/The CHAIRMAN

The CHAIRMAN pointed out that Mr. Binder's amendment was the furthest removed from the substance of the original draft. The Sub-Commission should therefore vote on it first. If it adopted it, it would be rejecting all the other amendments; if it rejected it, the Sub-Commission would have to discuss the other amendments; if they in turn were rejected, it would have to revert to the Montevideo draft.

Mr. PLEIC said that both Mr. Géraud and Mr. Moulik had endeavoured to give universally valid expression to the ideas which should be contained in paragraph 3. Mr. Binder, on the other hand, was proposing a text which reflected the experience of journalists in one country only. The Sub-Commission should, therefore, vote on Mr. Géraud's and Mr. Moulik's amendments first.

Mr. BINDER could not see why less value should be placed on a text which, in his country, had for years governed the professional activities of many journalists. There was no justification for asserting, at the outset, that it would not apply equally well to the press in other countries.

Mr. LOPEZ said that Mr. Binder's amendment only mentioned the obligations of workers in the press service, whereas the Code was intended to cover the obligations of workers in all organs of information without exception. The said amendment should therefore be changed to that effect.

Mr. BINDER was perfectly prepared to extend the scope of his amendment by making the changes asked for.

The CHAIRMAN said, in reply to a remark by Mr. Pleic, that the Sub-Commission should not regard Mr. Binder's amendment as an extract from the American Journalists' Code but rather as a proposal emanating from a member of the Sub-Commission. Everybody had a right to draw his inspiration from any source he pleased.

Mr. PLEIC explained that he had not intended to question the value of the Code from which Mr. Binder had taken his amendment. Moreover, in principle, he had no objection whatsoever to the said amendment; he merely wished to be given an opportunity to vote on Mr. Géraud's amendment.

Mr. SILVA CARVALLO could see no difference between the idea underlying Mr. Binder's amendment and that contained in the original draft. The latter seemed more general in scope than did Mr. Binder's, which was more in the nature of a regulatory provision. That was why he would vote against Mr. Binders' amendment and for the original draft.

The CHAIRMAN said that while he appreciated the considerations which had prompted Mr. Binder and Mr. Géraud to submit their amendments, he would nevertheless vote for the original draft as its scope was more universal.

He then put to the vote Mr. Binder's draft amendment to paragraph 3.

Mr. Binder's draft amendment to paragraph 3 was rejected by 3 votes to 2, with 4 abstentions.

The CHAIRMAN put to the vote the draft amendment to paragraph 3 submitted by Mr. Moulik.

Mr. Moulik's draft amendment to paragraph 3 was rejected by 4 votes to none, with 5 abstentions.

The CHAIRMAN then put to the vote the draft amendment to paragraph 3 submitted by Mr. Géraud.

Mr. Géraud's draft amendment to paragraph 3 was rejected by 5 votes to 1, with 3 abstentions.

The CHAIRMAN invited the Sub-Commission to discuss paragraph 3 of the original draft.

Mr. LOPEZ wished the original paragraph 3 to be replaced by the Commonwealth Press Union's draft (E/CN.4/Sub.1/151, page 49). While in no way deviating in substance from the original draft, it had the advantage of being worded in more appropriate terms.

/The CHAIRMAN

The CHAIRMAN suggested that the Drafting Committee might edit paragraph 3 bearing in mind Mr. Lopez' comments.

He then called upon the Sub-Commission to vote on paragraph 3 of the original draft, without prejudice to that decision.

Paragraph 3 of the original draft was adopted by 5 votes to none, with 3 abstentions.

The CHAIRMAN invited the Sub-Commission to consider the amendments to paragraph 4.

Mr. BINDER explained that the purpose of his amendment to delete the second sentence in paragraph 4 was to eliminate from the Code any provisions of a legal nature. Statements made to a journalist were not the same as confidences made to a priest or a doctor, and a provision in the Code on professional secrecy would have no effect on national legislations on that subject. The Association Suisse des Editeurs de Journaux and the Union Romande de Journaux had pointed out in their comments that that sentence was superfluous "since not all national legislations necessarily recognize the right of anonymity, and the code of ethics concerns journalists primarily and not the State". He still believed that the Code should avoid laying down positive rules of conduct and should not list the offences to which workers in the press service might lay themselves open. He again drew the Sub-Commission's attention to the very sensible comments on that subject made by the International Federation of Free Journalists to the effect that "ethical principles" should not be mixed up "with common offences punishable under the penal law of every civilized country."

The CHAIRMAN put to the vote the draft amendment submitted by Mr. Binder (E/CN.4/Sub.1/L.6) to delete the second sentence in paragraph 4.

Mr. Binder's draft amendment was not adopted, 1 vote being cast in favour and 1 against; with 6 abstentions.

The CHAIRMAN put to the vote the draft amendment submitted by Mr. Géraud (E/CN.4/Sub.1/L.9).

Mr. Géraud's draft amendment was rejected by 4 votes to none, with 5 abstentions.

The CHAIRMAN invited the Sub-Commission to vote on Mr. Chang's draft amendment (E/CN.4/Sub.1/L.8).

Mr. LOPEZ thought that Mr. Chang's draft should be replaced by the text submitted by the Commonwealth Press Union, which was identical in substance but was couched in happier terms (E/CN.4/Sub.1/155, p. 54). Apart from the question of drafting, he was particularly anxious that the idea contained in Mr. Chang's amendment should be retained.

The CHAIRMAN reminded the Sub-Commission that it had been agreed in principle, that Mr. Chang's amendments were purely drafting amendments and should, therefore, be referred to the Drafting Committee. As, however, the last sentence in that amendment contained a new idea, it should be put to the vote.

He therefore put to the vote the last sentence of Mr. Chang's draft amendment, which read: "The right to maintain such secrecy shall be asserted to the utmost limits of law".

That portion of Mr. Chang's draft amendment was adopted by 5 votes to 2, with 2 abstentions.

The CHAIRMAN put to the vote paragraph 4 of the original draft, the last sentence of which had just been replaced by the text proposed by Mr. Chang.

Paragraph 4, as amended, was adopted by 6 votes to none, with 3 abstentions.

The CHAIRMAN then put to the vote Article III of the draft as a whole, composed of paragraph 1 of Mr. Géraud's amendment; paragraph 2 of the original draft, as amended by Mr. Chang; paragraph 3 of the original draft and paragraph 4 of the original draft, as amended by Mr. Chang.

Article III, as amended, was adopted by 6 votes to none, with 3 abstentions.

/The CHAIRMAN

The CHAIRMAN, before adjourning the meeting, asked the members of the Sub-Commission once again to keep strictly to the time-table of meetings.

The meeting rose at 1.05 p.m.