

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

Third Session

SUMMARY RECORD OF THE FIFTY-FIFTH MEETING

Held at Lake Success, New York,
on Monday, 6 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. AZKOUL	Lebanon
	Mr. AZMI	Egypt
	Mr. BINDER	United States of America
	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 Specialized Agency:

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

Mr. HOGAN	Secretary of the Sub-Commission
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CONSIDERATION OF MEANS BY WHICH THE SUB-COMMISSION MAY RECEIVE FROM GOVERNMENTAL AND OTHER SOURCES INFORMATION CONCERNING CURRENT LEGISLATION AND PRACTICES IN THE FIELD OF ITS COMPETENCE (discussion continued).

The CHAIRMAN opened the discussion on the proposal made by Mr. Binder to the effect that the Economic and Social Council should request the Secretary-General to invite those Governments which had not yet replied to the Request for Information (E/CONF.6/2) to do so as soon as possible.

Mr. AZKOUL supported Mr. Binder's proposal but thought it might be somewhat extended. For example, the Secretariat might have found that the replies to certain questions had been inadequate, or fresh questions might have arisen out of the replies. If that were the case, the Secretariat should be authorized to ask further questions or to request clarification on some of the replies already received.

With regard to the question of sources other than governmental, he thought that Governments were the only sources competent to supply information concerning legislation, but that information concerning practices might well be obtained from other sources. He asked the Secretariat which other sources were envisaged.

In order to dispel the anxiety expressed by Mr. Zolov at a previous meeting, he suggested that the Sub-Commission should decide at once on the question of the sources to which it would apply for information, but should wait until that information had been received before deciding whether or not it should be published.

Mr. BINDER appreciated the point made by Mr. Azkoul but thought that his suggestion might lead to difficulties were new questions which had not been included in the original questionnaire to be put to the countries which had not yet replied. In his opinion, it would be best to adopt one resolution dealing with the countries which had not yet replied to the original questionnaire and then, if necessary, decide to send a new questionnaire to all of the countries to which the original one had been sent, covering any fresh points which might have arisen.

/Mr. GERAUD

Mr. GERAUD supported the suggestion made by Mr. AZKOUL with regard to the question of sources of information other than governmental ones.

He pointed out that, when all of the replies had finally been received, the Sub-Commission would still only be informed of the situation that had prevailed at the beginning of 1948. In his opinion, there should be a constant flow of information; otherwise, the Sub-Commission would be discussing questions which were already out of date. He had already, at a previous meeting, stressed the necessity of ensuring the continuity of the Sub-Commission's work through a special section of the Secretariat. The need for such continuity had become even more apparent in the subsequent discussion and he therefore submitted a redraft of his previous proposal (E/CN.4/Sub.1/81).

The CHAIRMAN said that Mr. Géraud's proposal would be discussed in connexion with item 4 of the agenda.

As to the question under discussion, he asked the Secretary how many countries had answered the request for information, how full the answers had been, and whether there was any likelihood of receiving replies from countries which had not yet replied.

Mr. HOGAN (Secretary) said that the request for information had been sent to all of the countries represented at the United Nations Conference on Freedom of Information, eleven of which were not, at that time, members of the United Nations. There had been sixty-eight countries altogether, and thirty-three had replied to the request for information and thirty-five had not. When the Economic and Social Council had requested the Secretary-General to collate the replies received, a letter had been sent to all sixty-eight countries informing them of the fact and asking if they had anything to add to their original replies. Several countries had answered that they had nothing to add, four countries had sent additional statements, and the Government of Pakistan had just replied saying that it would answer the whole request for information. The fact that only one of the countries which had not replied to the original request had announced its intention of doing so on receiving a reminder, was the only indication he could

give as to the likelihood of receiving replies from the Governments which had not yet sent them.

As to the fullness of the replies, he could only say that they had varied greatly in length and detail.

With regard to the question asked by Mr. Azkoul, he stated that there were several possible sources of information apart from governmental ones. There were associations of editors, unions of working journalists and various non-governmental organizations of that kind. The original request for information had been long and exhaustive and the programme of work adopted by the Sub-Commission would be the only possible basis for issuing a new request.

Mr. GANDHI agreed that the original request for information was extremely full.

He was particularly interested in the question of sources and thought that some definite provision should be made for receiving communications from non-official organizations as well as from Governments. He therefore submitted a resolution to the effect that Governments should be invited to furnish the names and full particulars of all non-official organizations of news personnel operating within their territory.

The CHAIRMAN reminded members that only five non-governmental organizations had actually attended the Conference, and only one of those had been a journalists organization in the strict sense of the term.

With regard to Mr. Gandhi's proposal, he feared that if Governments were asked to supply lists of non-official organizations they would be tempted to include only those organizations which supported their views. It might therefore be better to ask the Secretariat to provide a list of the organizations and the Sub-Commission could then decide which ones to apply to for information.

Mr. AZMI thought that some specific guidance should be given to the Secretariat and suggested that it should be authorized to get in touch with the national information and press associations recognized within the various countries.

After a short discussion on the use of the words "recognized" or "legally constituted", it was eventually decided that the question of sources would be considered separately from the question dealt with in Mr. Binder's proposal.

The CHAIRMAN suggested that Mr. Azkoul's ideas might be incorporated into Mr. Binder's proposal so that the draft resolution would read:

"The Sub-Commission on Freedom of Information and of the Press recommends that the Economic and Social Council should request the Secretary-General to solicit additional information on the matters contained in the request for information from Governments that have either not replied to it or have supplied incomplete information."

Mr. BINDER and Mr. AZKOUL agreed to the text suggested by the Chairman.

The draft resolution as read by the Chairman was adopted by 9 votes to none, with 2 abstentions.

In reply to questions raised by Mr. Azkoul and Mr. Binder, the CHAIRMAN stated that the original request for information would be circulated without the addition of new questions; but that the wording of the resolution authorized the Secretariat to request additional information on any points to which incomplete replies had been given as well as to ask the countries which had not yet replied to do so as soon as possible.

Mr. FARR (UNESCO) asked whether there was any provision for obtaining information concerning important changes which might take place in the legislations of the various countries after they had sent in their replies to the questionnaire.

He also wondered whether it would be possible for the Secretariat to assist Governments which found it difficult to reply to the questionnaire, by preparing draft replies on the basis of the information obtainable by its own research in respect of each country, and then submitting such draft replies to the Governments concerned for their approval.

Mr. HOGAN (Secretary) replied that the Secretary-General would certainly request information on any important changes in legislation if the Sub-Commission made a recommendation to that effect.

/With regard

With regard to the second suggestion, he pointed out the difficulties that would be involved in preparing replies for thirty-five different Governments from the resources available in New York. The existing staff of the Freedom of Information Section would certainly not be adequate for such a task.

Mr. BINDER agreed that the compilation of replies for thirty-five Governments would be an impossible task for the Secretariat to perform.

The CHAIRMAN thanked Mr. Farr for his suggestions and proposed that the second one should be dropped as it appeared to be impracticable. With regard to the first suggestion, the Secretary-General could include in the letter soliciting new or additional information a request to Governments to inform him of any important changes which might have taken place since their previous replies.

It was so decided.

The CHAIRMAN then took up the proposal of Mr. Gandhi that the Economic and Social Council should request Governments to prepare lists including the names and full particulars of the non-governmental organizations in their respective States which might furnish the Sub-Commission with data on the constitutional provisions, national legislation and administrative practices affecting the free dissemination of news.

He recalled also his suggestion that the Secretariat should choose from the lists those of the organizations from which it would be advisable to seek information.

Mr. GANDHI approved the Chairman's idea and requested that the Secretary of the Sub-Commission should draft a text incorporating that idea into the text of his proposed resolution.

He pointed out that he did not share the Chairman's apprehension that the Governments might exclude names of bona fide national organizations which were not in sympathy with the administration in their respective countries. If they should do so, however, the experts of the Sub-Commission would not be deceived; they knew all such

/organizations.

organizations. Moreover, in accordance with the resolution under consideration, they reserved the right to communicate with any which they considered bona fide and which might not be included in the lists.

Mr. HOGAN (Secretary) foresaw a difficulty which might arise: if the Secretary-General requested lists of organizations from the various Governments, and they were supplied, he could not then supplement those lists by choosing other organizations to be contacted. Only the Sub-Commission could do so.

Mr. AZKOUL thought that, as a matter of courtesy and in observance of the spirit of the Charter, the Sub-Commission should state in the resolution that it would be glad to receive information from the organizations on the lists and also from other non-governmental organizations.

Mr. GANDHI agreed and suggested that a resolution should be drafted to that effect.

Mr. FONTAINA considered that there was danger of confusing items 1 and 2 of the agenda in the drafting of the resolution; item 1 dealt with means by which the Sub-Commission could receive information on legislation and practices relating to freedom of information; and item 2 concerned the establishment of procedure for liaison with information enterprises and professional organizations. Soliciting and receiving information were two different things; the Sub-Commission was bound by certain rules relating to the establishment of liaison with organizations of categories A, B and C.

He thought that Mr. Gandhi's resolution would be clearer if it were divided into two parts, one concerning the request for information from governmental sources, and the other, concerning the Sub-Commission's desire to receive information from individuals or non-governmental organizations.

The CHAIRMAN requested that the Secretary of the Sub-Commission should take that suggestion into consideration in re-drafting Mr. Gandhi's resolution.

/Mr. GANDHI

Mr. GANDHI wished to amend the last part of his resolution so as to state clearly that the Secretary-General was authorized to contact "at his discretion" organizations not on the lists supplied by the Governments.

Mr. SILVA CARVALLO thought that it was not advisable to leave to persons who were not members of the Sub-Commission the responsibility of deciding which organizations were to be asked for information. The Sub-Commission itself should be able to say which organizations were to be approached.

Mr. BINDER shared the opinion of Mr. Silva Carvalho and believed that the Secretary-General's office could solicit information from the non-governmental sources only at the request of the Sub-Commission.

The CHAIRMAN suggested that the last part of the resolution should state that the Secretary-General was authorized "to secure information from such other non-governmental organizations as the Sub-Commission may indicate."

Mr. GANDHI requested that the first part of the resolution should specifically ask Governments to supply lists including not only names but full particulars of non-governmental press, radio or newsreel enterprises; such particulars would include the dates of their organization, their constitutional status and whether they were or were not legally constituted bodies.

Mr. FARR (UNESCO) recalled that Mr. Gandhi's original text had mentioned national, and not international, organizations. The Economic and Social Council already had a procedure for dealing with international organizations.

The CHAIRMAN remarked that he had introduced the word "international" when he chose to reproduce the wording of the Sub-Commission's terms of reference, which stated that the Sub-Commission might receive communications from any "legally constituted national or international press, information, broadcasting or newsreel enterprises or associations".

/Mr. BINDER

Mr. BINDER pointed out that it was not customary to ask Governments for data on international organizations. As the international information enterprises referred to acted also as national bodies, he suggested that only the word "national" should be retained in the text.

Mr. FONTAINA supported Mr. Binder's suggestion.

Mr. AZMI added that he did not consider it proper to ask unofficial organizations for information on national legislation; that should be requested from governmental sources.

The CHAIRMAN proposed that the text should be amended to read: "lists of associations from which information could be elicited relating to freedom of information".

Mr. GANDHI preferred the wording: "information or opinions relevant to the objects of the Sub-Commission".

The CHAIRMAN stated that the text of sub-paragraph 1, as amended, read:

"The Sub-Commission on Freedom of Information and of the Press,

"Recommends to the Economic and Social Council that the Secretary-General be authorized:

"(1) To request Governments to submit a list with names, addresses and full particulars of non-official national press, information, broadcasting or newsreel enterprises or associations from which information or opinions relevant to the objects of the Sub-Commission could be elicited."

He put to the vote the text of sub-paragraph 1.

The sub-paragraph was adopted by 9 votes to 1, with 1 abstention.

The CHAIRMAN then took up the text of sub-paragraph 2, which read:

"(2) To obtain on behalf of the Sub-Commission such information or opinions from the organizations or associations included in those lists."

Mr. AZKOUL pointed out that, as the text read, the Secretary-General was authorized to ask for information at any time, at his discretion. He wanted to see the wording amended so as to make it clear that the Sub-Commission wished the Secretary-General to ask for information only upon its request.

Mr. FONTAINA and Mr. SILVA CARVALLO agreed that the Sub-Commission should take the initiative in requesting information.

Mr. AZMI proposed the addition of the words "at its request" after the words "on behalf of the Sub-Commission".

It was so decided.

Mr. GERAUD pointed out that, if the Secretary-General were responsible for securing the necessary information, the Sub-Commission would find itself at the beginning of each session in possession of an accumulation of information which was several months out of date. The Sub-Commission wished current data. One way in which to obtain it was to have an "organizer" in the Secretariat, or some such section as he had suggested in the resolution which he had just submitted (E/CN.4/Sub.1/81).

Mr. AZKOUL understood Mr. Geraud's view, but he pointed out that the Sub-Commission would be shifting its responsibility if it should set up such a section in the Secretariat. Under its terms of reference it was responsible for securing such information.

Mr. BINDER proposed that the words "such information" should be replaced by the words "information relevant to the work of the Sub-Commission".

The CHAIRMAN suggested: "information called for under the preceding paragraph".

Mr. GANDHI considered that the wording of sub-paragraph 2, as amended, was adequate; he preferred to leave it as it was.

/The CHAIRMAN

The CHAIRMAN put to the vote the text of sub-paragraph 2, as amended.

The sub-paragraph was adopted by 8 votes to 2.

The CHAIRMAN stated that the text of sub-paragraph 3, as amended, read:

"(3) To secure such information from such other non-governmental organizations as the Sub-Commission may decide."

He put to the vote sub-paragraph 3, as amended.

The sub-paragraph was adopted by 7 votes to 2, with 2 abstentions.

The CHAIRMAN put to the vote the resolution as a whole.

The resolution as a whole was adopted by 9 votes to 2.

Mr. FARR (UNESCO) asked if the Sub-Commission had adopted a resolution on securing information from non-governmental international organizations.

The CHAIRMAN explained that such a matter would come under item 2 of the agenda.

He added that Mr. Geraud's proposal concerning establishment of a permanent section in the Secretariat to obtain information would be considered in connexion with item 4 of the agenda.

Taking up item 2 of the agenda, he remarked that much of the discussion on item 1 concerned also item 2. The only new factor to be considered was procedures for liaison with professional organizations which had not been established in connexion with item 1.

Mr. FONTAINA thought that methods of dealing with private, technical and professional organizations, national or international, would have to be different. Moreover, some of those organizations were already connected with the United Nations. Resolutions relating to some of the organizations had been adopted at previous meetings. It would be useful to have a list of them and to hear the representative of UNESCO state which organizations that agency was in contact with.

Mr. AZMI proposed that, in view of that fact, the Sub-Commission should defer consideration of item 2 until the following meeting.

The CHAIRMAN requested the members of the Sub-Commission to give some thought to the matter of establishing a procedure for inviting representatives of the organizations mentioned in item 2 to attend and be heard at meetings of the Sub-Commission. Representatives of the specialized agencies, and non-governmental organizations to which the Council had granted consultative status, category A, were automatically received at the meetings. But a procedure for receiving the organizations of categories B and C should be established.

Mr. DEDIJER requested that the Secretariat should furnish the Sub-Commission with a list of non-governmental organizations in categories A, B and C before the next meeting.

The CHAIRMAN stated that consideration of item 3 of the agenda should be postponed until later, and that items 2, 4 and 5 would be taken up at the following meeting.

The meeting rose at 5.35 p.m.