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## COMMISSION ON HUMAN RIGHTS

## SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS

Memorandum on Possible International Action  
in the Field of Freedom of Information

(Prepared by the Secretariat)

1. The Sub-Commission is required to report to the Commission on Human Rights on any issue which may arise from its examination of the rights, obligations, and practices which should be included in the concept of freedom of information (document E/325).

2. The Sub-Commission may wish to make recommendations concerning possible international action with a view to assuring a freer and more accurate and reliable international flow of information. Various courses of action which are not mutually exclusive could be considered.

A. A Declaration by the General Assembly. Through the Commission on Human Rights and the Economic and Social Council, or through the Conference on Freedom of Information and the Economic and Social Council, a draft declaration could be prepared for consideration by the General Assembly.

B. An International Convention. The terms of reference of the Commission on Human Rights state that its work shall be directed towards submitting proposals, recommendations and reports to the Economic and Social Council regarding international declarations or conventions on, inter alia, freedom of information. The Sub-Commission may wish to make recommendation on this subject to the Commission on Human Rights.

The Sub-Commission may wish to recommend to the Economic and Social Council that the terms of reference of the Sub-Commission or the Conference be extended to include the preparation of draft international convention on freedom of information.

/C. An International Press Body.

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C. An International Press Body. The Draft Agenda for the Conference on Freedom of Information submitted by the Delegation of France (document E/355), after listing measures which would allow freedom of information and afford protection against abuses of this, suggests that the Conference consider "the creation of an international press body with the responsibility of ensuring the application and enforcement of the above measures." The Sub-Commission in preparing the draft documented agenda for the Conference may wish to suggest that the Conference consider the structure and functions of an international press body or bodies representing all media of information and make recommendations to the Conference on how such body or bodies would be brought into existence. Such an international press body or bodies would be either (a) non-governmental and professional, or (b) inter-governmental.

(In the event the Sub-Commission should recommend the establishment of a professional body or bodies, it may want to consider the history and constitution of the International Court of Honour for Journalists established at the Hague in 1931 and other similar initiatives. Documentation concerning the Court of Honour is attached as an Appendix.)

D. The Sub-Commission on Freedom of Information and of the Press. The Commission on Human Rights, in establishing the Sub-Commission, considered that its initial task would be the preparation of plans for the Conference. In order not to prejudge the recommendations of the Conference concerning any continuing international body or bodies in the field of freedom of information, the Commission decided that the term of office of members be, in the first instance, one year, subject to consideration by the Commission before the end of that period (document E/259). The Sub-Commission may wish to make some recommendation to the Commission regarding this question.

3. The Sub-Commission may wish to make recommendations to the Commission on Human Rights concerning the implementation of the sections of the draft International Bill of Human Rights which concern freedom of information.

/Any recommendations for

Any recommendations for implementation in the field of freedom of information must, of course, be consonant with any broader proposals made by the Commission on Human Rights. The attention of the Sub-Commission is drawn to the fact that the draft International Bill of Human Rights will not be presented to the General Assembly before its regular session in 1948. Again, these recommendations should anticipate action by the Conference which will report to the Economic and Social Council, and through that body to the General Assembly in 1948. The final responsibility for co-ordinating any proposals for implementation in these fields rests with the Economic and Social Council before these proposals are presented to the General Assembly.

4. Article 63 of the Charter empowers the Economic and Social Council to prepare draft conventions for submission to the General Assembly. This article also empowers the Economic and Social Council to call international conferences. It seems, therefore, that the Economic and Social Council could, of its own initiative, broaden the stated purpose of the Conference. While the resolution of the General Assembly instructing the Economic and Social Council to convoke the Conference makes no reference to implementation, the Sub-Commission may or may not wish to recommend that the Economic and Social Council request the General Assembly to broaden the purpose of the Conference to include recommendations concerning implementation, or that the Council do this on its own initiative.

APPENDIX

NOTES ON THE HISTORY AND CONSTITUTION  
OF THE  
INTERNATIONAL COURT OF HONOUR FOR JOURNALISTS

1. The International Court of Honour for Journalists was established at the Hague in 1931 by the Fédération Internationale des Journalistes and provided a procedure whereby the profession hoped to establish standards and discipline itself. The Court reflected a growing contemporary concern over the circulation of false news calculated to endanger friendly international relations. At the inaugural meeting the president of the Federation stated the intention of his organization "to drive out from the profession of journalism men who create ill will between peoples by stating as truth mischievous things which they know to be false." The Court was never called upon to function, but its Constitution, Statutes and Rules of Procedure constitute a serious effort on the part of journalists at self-regulation.

2. A statement of basic principles by the Federation referred to its desire to create an institution which would contribute to the establishment and maintenance of good will between peoples, to the raising of the professional dignity of journalists and the safeguarding of the rights of members of the federation. The following principles were stated to be of primary importance to the Court:

"1. The principle of freedom of the press is the intangible basis of the profession of journalism. Consequently no action may be taken against a journalist on account of the beliefs he holds or on account of commentaries he may make on contemporary events.

"2. The Court is not to consider opinions. Only information and the ethics of methods used are within its competence insofar as international relations may be affected.

"3. The Court will not accept the fact that opinions, comment or doctrine have been based on news which has been voluntarily falsified or on documents which have been deliberately mutilated or distorted.

/"4. The Court will

"4. The Court will hold every journalist responsible for the news which he communicates to his newspaper in whatever form -- reports, interviews or investigations, etc. In the event of a factual error or a serious omission, the journalist may demonstrate his good faith provided he has done his best to publish a clear and precise correction.

"5. The Court will hold that no journalist may publish news which he has obtained by affirming falsely that he does not intend publishing it, nor will he fail in any way to carry out undertakings which he has given in order to obtain news."

3. The Court, it will be noted from its Rules of Procedure and Constitution\*, was to deal only with "complaints relating to the actions of journalists concerned with international affairs," submitted to the Fédération Internationale des Journalistes by the organizations which composed it.

4. The action that was to be taken in the event of a journalist being found guilty of a professional misdemeanor is interesting in the extent to which it suggested the limitation of the disciplinary powers of the Court. The rules state:

"When a verdict of guilty has been rendered, the Court may take one of the following measures:

1. Admonition.
2. Reprimand.
3. Declaration that the guilty party is unworthy to exercise the journalist's profession; this shall involve a recommendation to the association concerned to expel the guilty journalist, and his permanent disqualification from admission to, one of the organizations affiliated to the Fédération Internationale des Journalistes. A three-fifths majority shall be required for this declaration of unworthiness."

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\* The Rules of Procedure and Constitution of the Court are attached.

The organizations of journalists, delegates of which participated in the setting up of the court, comprised twenty-two national federated organizations, seven affiliated associations, and three associations in the process of being admitted to the Fédération Internationale des Journalistes. The only Latin American organization included was the Associação Brasileira de Imprensa, of Rio de Janeiro, and neither United States nor Soviet journalists were represented.

5. In discussing the terms of reference of the Sub-Commission on Freedom of Information and of the Press at the Nuclear Commission on Human Rights (Verbatim Record of Ninth Meeting, 10 May 1946) the representative of France stated:

"We are no more in the time when national laws were sufficient to regulate our press matters. Today the press is an international phenomenon and covers the whole world, and since now there are single countries which send their information all through the world, we need some international concern over this. The international press agencies of today have a part to play far more important than was the case say some fifty years ago. We have seen the importance of their part in international life, for instance, at the League of Nations. I must say - and I saw it myself - that the correspondents at the League of Nations created and set up an international group and they have at times expelled from their midst people who used the press to foster enmity between people on false grounds. Therefore, it is also the concern of the press itself to see that on an international plane something be done to keep decent standards. The Sub-Commission will have to examine this with great care. We need a kind of international organization of the press which will itself organize the means of repression against the use of false or partly false information directed, for instance, against a group or against a nation. I would therefore suggest that we add a supplementary paragraph on the responsibility of those who use the press against the aims of the United Nations. We will

/have to ask

have to ask the Sub-Commission to study this question, and I think it should be done with the co-operation of the international press agencies and press organizations, which can do a great deal to assure these aims."

6. Should it consider the establishment of a similar organization to the International Court of Honour for Journalists, there are several factors which the Sub-Commission may wish to bear in mind:

(a) Would such a Court operate only within the framework of and in collaboration with the International Organization of Journalists and its affiliated national organizations, or would both a wider and more inclusive professional basis be sought? (NOTE: The International Organization of Journalists at present includes national organizations comprising 130,000 members.)

(b) Should the competence of a Court be extended beyond the statement of basic principles given in (2) above?

(c) Might some formula be sought for bringing within the jurisdiction of a Court a wider range of violations than those referable to the former Court? (NOTE: In order to secure complete observance of standards of freedom and responsibility, the Sub-Commission might consider the desirability of extending the jurisdiction of a court to all parties responsible for violations.)

(d) Should the jurisdiction of a Court be extended to other media of information, or parallel ones established for each?

III

The International Court of Honour shall consist of a President, Vice-President, two permanent judges, two non-permanent judges and four alternate judges.

The President, the Vice-President, the permanent judges and their alternates shall be appointed annually by the Executive Committee of the International Federation of Journalists.

RULES OF PROCEDURE  
AND CONSTITUTION OF THE INTERNATIONAL COURT  
OF HONOUR FOR JOURNALISTS

I.

The International Court of Honour of the International Federation of Journalists shall be competent to deal with all disputes relating to honour which may arise between journalists of different nationalities, or between a journalist and a non-journalist of different nationalities. The International Court of Honour of the International Federation of Journalists shall not be competent to deal with such disputes arising between persons of the same nationality.

No action may be instituted by the party concerned before ordinary courts until the Court of Honour has taken a final decision on a case which has been submitted to it, with the exception of actions intended to safeguard rights for which time limits of prescription or other time limits exist.

II.

The Court of Honour shall hold its meetings simultaneously with those of the Executive Committee in the city where the latter is sitting. In cases where the dispatch of urgent business demands an earlier meeting, the Court shall meet according to requirements and in the absence of any previous agreement between the parties; it shall then meet in the capital of the State where the plaintiff is domiciled or habitually resident. Agreements between parties departing from this rule shall not be effective unless they have been submitted in writing to the President of the Court before the date is fixed for the opening of oral proceedings.

III.

The International Court of Honour shall consist of a President, a Vice-President, two permanent judges, two non-permanent judges and four alternate judges.

The President, the Vice-President, the permanent judges and their alternates shall be appointed annually by the Executive Committee of the International Federation of Journalists.

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The judges, with the exception of the President, must be professional journalists. The President and the Vice-President, who should, as far as possible, have a legal background, shall be appointed on the nomination of the Legal Commission and from amongst persons of international reputation. Their term of service shall be one year. This term shall be prolonged automatically until the Executive Committee appoints their successors, if the latter have not been elected at the due dates. Non-permanent members shall be appointed for each case by the President of the Court from a panel previously drawn up by the Executive Committee on nominations from the national organizations. It is understood that these judges cannot be chosen from the States to which the parties belong.

#### IV.

The Executive Committee shall also appoint annually a public prosecutor and two alternates who shall have all the duties of public prosecutors in relation to legal organizations.

The International Court of Honour can only deal with complaints relating to the actions of journalists concerned with international affairs. These complaints must be submitted to the Office of the International Federation of Journalists by affiliated organizations and not by individuals.

#### V.

The International Court of Honour cannot make any decisions unless the President or the Vice-President and two members, including at least one permanent member, are present.

Within one week after receiving the complaint, the President or the Vice-President shall advise the parties of the introduction of the case and shall inform them of the date and place of the opening of proceedings. At the same time they shall communicate to them, with the latter information, the names of the judges and their alternates, and shall invite them to state within two weeks whether they intend to object to a member of the Court on grounds of partiality.

/This right may

This right may only be exercised once. It may be exercised in relation to several members of the Court. An objection shall not be valid unless it is submitted within the prescribed time limits and above grounds for the belief that the judge objected to is not in a sufficiently independent position to take an impartial decision, owing to his personal relations with the case or with one of the parties. No other ground is acceptable. The objection shall be notified to the person concerned immediately. If that person states that the ground for the objection is legitimate, the objection must be upheld. If the contrary is the case, the Court shall take a decision on the objection in the absence of the judge concerned. There shall be no appeal against this decision.

No relative of one of the parties, no person connected to one of them by marriage or personally interested in the result of the proceedings may sit on the Court; such person shall retire automatically.

The opening of the hearing shall not be fixed for a date earlier than four weeks after the submission of the complaint, nor before the end of the hearing of an objection. The accused may submit a reply to the complaint made against him. This reply must reach the President of the Court of Honour at least two weeks before the date of the first hearing. The accused, his council and the public prosecutor must be allowed to consult the dossier relating to the case, if they so request.

#### VI.

All members of the Court of Honour shall be bound by their professional honour to maintain strict silence regarding the course of the proceedings and the facts and documents which may come to their knowledge in this connection. Similarly, the parties, witnesses and all those officially concerned in the case must pledge themselves on their honour, before the first hearing and on the invitation of the President, to maintain the same silence.

Only the result of the vote shall be included in the record, and no mention shall be made of the fact, whether the decision was taken unanimously or by a majority.

VII.

Judgment shall be passed after the oral proceedings. These oral proceedings must be prepared with the help of statements obtained from the parties and witnesses and the submission of documents, experts' reports and other written evidence.

The statements of witnesses and experts who are not resident at the place where the Court is sitting shall, as far as possible, be made at their places of residence in the presence of the President, a member of the Court, or a person appointed by the Court for this purpose. Affiliated organizations shall be advised to supplement their statutes in order to impose upon their members the obligation to facilitate the task of the Court of Honour to the best of their ability, in particular by making truthful statements and by placing at the Court's disposal, at its request, all the evidence in their possession, such as original texts, etc. Any wrongful violation of this obligation shall be punished by the national organizations as a breach of professional honour.

The Court may consider the case and take decisions when the parties invited to attend on a fixed date have neither appeared themselves nor have arranged to be represented by counsel, in which event they must provide an acceptable excuse. The Court of Honour may, with the written consent of both parties, take decisions without oral proceedings and solely on the basis of written procedure.

VIII.

Each of the parties concerned, the President and the organs of the International Federation of Journalists, and any of the organizations affiliated to the International Federation of Journalists, may request the opening of proceedings before the Court of Honour in the manner laid down in Article IV, paragraph 2. The plaintiff shall be entitled to bring a civil action, and shall have all the necessary prerogatives for this purpose.

The request must be addressed in writing to the President of the Court and the Secretary-General of the International Federation of Journalists, with a complete statement of the reasons motivating the request, all the above in

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duplicate. The complaints of persons not belonging to an organization affiliated to the International Federation of Journalists cannot be entertained unless these persons promise unconditionally in writing to accept judgment passed in accordance with the present statute, and to pay the costs for which they will be charged in the event of judgment being passed against them.

The two parties may be assisted by counsel of their own choice or may be represented by him. In the oral proceedings, the parties shall not be authorized to be represented by counsel, if the Court decides that they must appear in person.

#### IX.

An attempt shall be made to reach an amicable settlement before the opening of the proceedings. It must be made regularly by the President or by a member of the Court appointed for this purpose. It shall be considered that the attempt has failed if neither the parties nor their counsels appear, or if the parties, having been advised that they must appear in person, fail to do so, or if, after the conciliation meeting, the President states that the attempt has failed.

#### X.

Upon failure to reach an amicable settlement, the President shall select from the list of permanent judges a rapporteur who shall hear the parties, collect evidence, order expert investigations and draw up a report for submission to the President and the public prosecutor.

If the public prosecutor and the rapporteur concur, the President may decide that the proceedings shall be dropped.

Otherwise he must bring the accused before the Court of Honour.

#### XI.

Complaints relating to facts which took place more than six months previously shall not be entertained if these facts were known to the plaintiff during that length of time.

/XII.

XIII.

The Court of Honour shall make its decisions by a simple majority vote.

When the votes are equally divided, the President shall have the casting vote. A verdict of guilty shall require a majority of at least three-fifths of the votes. There can be no abstention in these cases.

When a verdict of guilty has been rendered, the Court may take one of the following measures:

1. Admonition;
2. Reprimand;
3. Declaration that the guilty party is unworthy to exercise the journalist's profession; this shall involve a recommendation to the association concerned to expel the guilty journalist, and his permanent disqualification from admission to one of the organizations affiliated to the International Federation of Journalists. A three-fifths majority shall be required for this declaration of unworthiness.

The judgment of the Court of Honour shall be communicated to the parties and to the journalists' organizations to which they belong. The parties cannot appeal against this judgment. On the other hand, the public prosecutor and the professional organization of the country to which one of the parties belong shall have the right to submit an appeal to the Executive Committee of the International Federation of Journalists within six weeks after the communication of the judgment. The appeal shall be addressed to the Secretary-General of the International Federation of Journalists. The Executive Committee of the International Federation of Journalists may itself take a decision or it may request a commission chosen from amongst its members to take this decision. The decision shall be taken under the chairmanship of the President of the International Federation of Journalists or his deputy.

The Secretary-General shall act as rapporteur. Representatives of organizations of the countries to which the parties belong cannot take part in the proceedings, except in an advisory capacity. The Executive Committee shall judge only on the basis of the facts established by the Court of Honour. If, however, it

/becomes evident in

becomes evident in the course of the proceedings that these facts are seriously inaccurate on essential points which influenced the decision, or that important new facts have arisen which might justify a different decision, the Executive Committee shall refer the case back to the Court of Honour in order that the proceedings may be reopened and a new decision taken. In all other cases, the Executive Committee shall take its decision by a majority vote. There shall be no appeal against this decision.

#### XIII.

The judgment of the Court of Honour shall become effective when the time limit for the appeal has expired. If, after it has been carried out, important new facts come to light, or if it appears that the judgment is invalidated by a grave error of procedure, the Court shall take a decision on a request to this effect. This decision may be taken as a result of written proceedings.

#### XIV.

All the communications provided for in the present statutes must be sent by registered post. The judgment of the Court of Honour shall be drawn up in writing and shall bear the signatures of all the members of the Court, even those who voted against it. The judgments of the Court of Honour shall be published in the Bulletin of the International Federation of Journalists.

#### XV.

Oral debates and all cross-examinations and statements of witnesses shall be entered in the record. The writer of the record shall be appointed and officially charged with this task by the person who conducts proceedings, or the cross-examination. At the end of the proceedings, the documents shall be sent to the Secretary-General of the International Federation of Journalists, who shall file them and keep them in the archives.

#### XVI.

The services of the members of the Court of Honour shall not be remunerated. The costs of proceedings shall be borne by the International Federation of Journalists. The party against whom the sentence is passed shall reimburse the costs to the International Federation of Journalists, within the limits of the sum which he has been sentenced to pay.

In order to ensure that the costs shall be thus reimbursed, the Court may require the plaintiff to provide surety to cover the costs of proceedings before they are opened. The same requirement may be made of the accused if he submits conclusions which might involve considerable expenditure. The Court shall regularly avail itself of this right in all cases where non-journalists or journalists not belonging to an association affiliated to the International Federation of Journalists are concerned.

XVII.

All the decisions of the Court of Honour relating to questions of principle shall be published in extenso or in the form of extracts in the Bulletin of the International Federation of Journalists, through the agency of the President of the Court of Honour.

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